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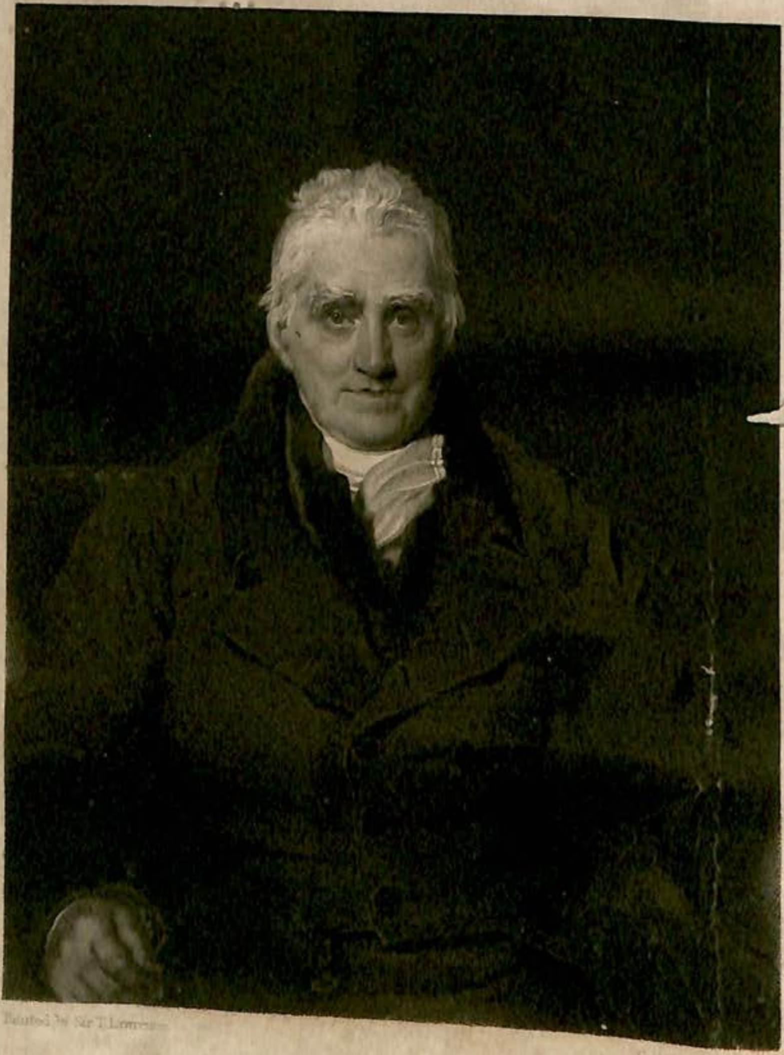

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JOHN EARL OF ELDON.

Born 1751 — Died 1838.

London, Published by John Murray Albemarle Street 1844.

THE

PUBLIC AND PRIVATE
LIFE
OF
LORD CHANCELLOR ELDON,

WITH

SELECTIONS FROM HIS CORRESPONDENCE.

4577.

BY

HORACE TWISS, ESQ.

ONE OF HER MAJESTY'S COUNSEL.

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al

IN THREE VOLUMES.

VOL. III.

Ingens ara fuit, juxtaque veterrima laurus
Incumbens aræ, atque umbrâ complexa Penates."
VIRG. *Æn.* lib. ii. 513, 514.

Hard by, an aged laurel stood, and stretch'd
Its arms o'er the great altar, in its shade
Sheltering the household gods.

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OF

LORD CHANCELLOR ELDON.

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Lord Eldon to Lady F. J. Bankes.—(Extract.)

(May 1827.)

"I WRITE a *scrap.* Never mind the name 'scrap;' it serves the purpose, as well as the more dignified term 'letter,' to convey from those who affectionately love the person to whom it is addressed, what is best worthy of that person's acceptance, the tenderest and warmest feelings of cordial, heart-felt attachment: as such a scrap, receive this, as I have received yours of this day.

"We have no news. The violence of the young members of the House of Commons, who are attached to the late Government, has done the ex-ministers, as I feared it would, some damage. John Bull don't like to see anybody too hard pressed; and his pity sometimes leads him to inclination, which his judgment would not have approved if commiseration had not been excited. But, to be sure, never was such a piebald Administration as this is likely to be, if it is finally formed by the junction of some of the Whigs."

Mr. Brougham, who by the death of the Queen had lost the office of Attorney-General to her Majesty, and with it the appertaining precedence at the Bar, was now invested with permanent rank, the gift of the new Ministry, whom he was eagerly supporting in the House of Commons. He had there, during several years, been a fierce assailant of Lord Eldon, who, in the Anecdote Book, speaks of his attacks as follows: —

"In the House of Commons, the conduct of that gentleman was often attributed to his not having a silk gown, and his not having that silk gown was supposed to be by him attributed to me. It was known by many, that his Majesty was so offended by parts of his speeches upon the proceedings on the Bill of Pains and Penalties, in the case of Queen Caroline, that he would not hear of that gentleman's being appointed one of the King's counsel; and I was repeatedly told by his Majesty, that he should consider it as an affront to himself, if I should propose to him such an appointment. My suggestion always was, that it did not become the dignity of his Majesty to manifest that the conduct of Mr. B. could so affect him, and I stated the great inconvenience and injustice which it occasioned to other gentlemen at the Bar, as promoting them in their profession was not merely overlooking Brougham, but doing him the injury, as it would be thought, of making promotions to his prejudice; that it was not merely refusing him a favour, by not promoting him in the ordinary course of professional advancement, but degrading him by advancing others. His Majesty, however, remained determined not to give him the appointment. Upon the late change of Administration (1827) I received a message from the King, to inform me that he had then consented to give him a silk gown, by giving him a Patent of Precedence. That message was delivered to me by Lord Lyndhurst, and I desired him to express my duty to his Majesty, and to state that I considered the communication as an authority to me to mention that it was his Majesty's act which had prevented this appointment from being made at an earlier period, and which the Chancellor promised me to state to the King. The Archbishop of York also delivered to me a message from Mr. B., stating that he knew that I had not stood in the way of his preferment, but that it was the act of his Majesty that he had not before been promoted. Subsequently to this was pronounced his panegyric upon me at Liverpool, and something of the same kind in the cause at Lancaster relative to an obstruction in the River Mersey. The same misrepresentation of my conduct prevailed as to Mr. Denman."

A bill for the alteration of the Game Laws was the subject of some discussion in the House of Lords on the 11th of May. Lord Abingdon having opposed it,

Lord Eldon said he wished to offer a few words respecting it, more especially because, in the days of his youth, he had been probably as great a poacher as any one, on the lands of the Noble Lord who had just resumed his seat, and to whom this was, perhaps, the best moment to tender an apology. [*A laugh.*] He went on to express his disapproval of the bill, which he thought would increase rather than diminish the offence of poaching, and which did nothing toward repressing the objectionable modern practice of collecting game in large quantities within narrow limits, for the purpose of battues. (With reference to the vulgar error, that a man starting game on his own land had a right to pursue it over the land of another, he related to the House his favourite story about poachers at Encombe.*)

The attempt to relax the marriage law in favour of the Unitarians was renewed in this Session. On the motion of Lord Lansdowne, in June, for going into Committee upon a bill passed by the Commons for this purpose, Lord Eldon repeated his former objections somewhat more in detail. † He added some further remarks, the principal of which are contained in a paper, found in his hand-writing since his death. The most material passages of that paper are the following: —

The whole ground of complaint the Unitarians have is in the fact that, in the blessing which the minister pronounces at the close of the marriage ceremony, he blesses the parties in the names of "God the Father, God the Son, and God the Holy Ghost." As a clergyman of the Church of England and a Trinitarian, if he said only "God bless you," he must under the word — the single word — "God" — mean exactly the same as he expresses in all these words. The Unitarians don't, I understand, object, in Baptism, to baptism "In the "name of the Father, the Son, and the Holy Ghost:" indeed they can't — for our Saviour himself, if memory serves rightly, commands baptism in those names — but they object to receive a blessing where the word "God" is used as above. It seems but a whimsical ground of complaint, for the ceremonial requires no answer to be made by them to the blessing — no assent to it. If the Jew was to say to me, "God bless you," — if the Unitarian was to say to me, "God bless you," — if our "ancient ally," the Turk, was to say to me, "God bless you," — I should think myself a strange peevish creature,

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* Already given near the end of Chap. XXVI.

† See his speeches in 1824, Chap. XLVI.

(if nothing was required of me,) if I thought my conscience insulted by the kind expression of the Jew, the Unitarian, or the Turk, because they used the expression "God," each of them giving a different meaning from that in which I, a Trinitarian, a Church of England man, used the same word "God."

* * * * * *

Where are these exceptions, as to the mode of celebrating marriage, to stop? If the Unitarians obtain this, how can the Roman Catholics be denied a bill of the same nature? Marriage with them is a sacrament; a sacrament in the administration of which the Roman Catholic priest only can effectually act; yet they don't refuse, in obedience to the law, to submit, and do submit, to marry in the Protestant Church, where the ceremony is no sacrament, though holy, and where the minister is by many of them not considered as a duly-ordained priest. If you compel the (Roman Catholic) Trinitarian to be married in your church as well as in his own, will you allow him to remain subject to this grievance, while you relieve the Anti-trinitarian by this bill?

How many other members of the different sects in this country may apply to you?

After arguing in his speech to the effect of the foregoing extracts, Lord Eldon moved the rejection of the bill, but was outvoted by a majority of 61 against 54. This was on the 26th of June: on the 29th the bill was abandoned. The Session of Parliament for 1827 closed on the 2nd of July, and Lord Eldon retired, as usual, to his seat at Encombe.

He had formed but too accurate an opinion, when, in his letter to Lady Frances Bankes announcing Lord Liverpool's apoplectic seizure, he spoke of Mr. Canning's health as likely to be unequal to the labours of First Minister. In the beginning of August, Mr. Canning was attacked by an inflammatory fever, succeeding to, or proceeding from, other ailments; and on the 8th his Government was terminated, almost in its very outset, by his death.

The genius of Mr. Canning was of the largest scope and of the finest order. Upon some of those general principles of politics which have become associated with his memory, the judgments of mankind will probably be ever divided; but, even with the most determined of his opponents, it has long ceased to be matter of question, that boldness, originality, and grandeur, were the characteristics of his policy. That policy, too, was essentially English. It was upon English principles that he upheld authority — it was upon English principles that he succoured liberty — it was to English interests, in the most enlarged and generous sense, that his heart and his energies were devoted — and his leading conviction was that "England, to be safe and happy, must be great." *

It was not, however, until his latter years, that he reached the full measure of his merited fame. He had attained no small celebrity at college, and even at school; and had acquired, before he was five-and-thirty years of age, great literary distinction and a pre-eminent reputation in the House of Commons. But that loftier praise, which belonged to him as a leader of his country's councils, was reluctantly and slowly conceded. Long before the public in general had recognised the real extent of his powers, he had been characterised by one of the more discerning and candid of his opponents † as "the first logician in Europe." But ordinary

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* See the spirited sketch of his character and policy, prefixed to his speeches by Mr. Therry, vol. i. p. 172.

† Lord Holland, in the House of Lords.

observers clung to ordinary prejudices. The combination of solid with brilliant qualities is so rare, that people commonly suppose an abundant sparkling of wit on the surface to indicate a dearth of wisdom beneath. The self-love of the vulgar will not brook to acknowledge any one man as their superior in several distinct departments of mind: and thus it was assumed, that the dazzling favourite of the House of Commons could not possibly possess the qualifications of a sound statesman. The full recognition of his superiority was further retarded by another cause which it must be owned that he had himself set in motion — the ill-will of those whom his talent for ridicule had annoyed. The laugh passes away, but the smart remains; and none are more thin-skinned than the thick-witted. Those whom in the buoyancy of his spirits he had satirised, and among whom were found some members even of his own political party, sought their revenge according to their nature, and gave him out as a mercurial, flighty rhetorician, a mere epigrammatist, wanting in all the solid parts of business. At his entrance into the Cabinet, and for many years afterwards, the offence was still unforgiven, and the disparagement was still reiterated. When the Ministry began to divide itself into two sections, the one somewhat rigid in its adhesion to actual establishments, and the other a little adventurous in experiments and concessions, the part taken by Mr. Canning, in favour of the larger and more hazardous theories, led to certain differences of opinion between him and Lord Eldon; and of these differences, widened as they had been by the Cabinet conflicts of September 1809, the enemies of Mr. Canning took all possible advantage, sedulously contrasting his character*, such as they themselves had chosen to misrepresent it, with the sterling qualities of the Chancellor. The Chancellor, it is hardly requisite to say, had no share in these petty attempts — for no man's mind was more averse from animosity or intrigue, and no man was less disposed to seek his own credit by injuring the personal character of a colleague; but it is among colleagues that political differences breed most displeasure; and something of a militant spirit did certainly disclose itself now and then between these two distinguished members of the Government. In Mr. Canning it broke out by way of incidental sarcasm upon the old-fashioned tenets of the legal dignitary; while the Chancellor would indulge in a little quiet satire on the stirring genius of the parliamentary leader. But the fiercest assailants of Mr. Canning were the low party in Church and State; who, hating him for his anti-revolutionary principles, and galled by his perpetual and powerful chastisements of their foremost pretenders, dogged him with unremitting malice, in hopes, by damaging his fame, to discredit his authority. They were ceaselessly on the watch for the slightest slip in his parliamentary or official course, and, of the few blots he made, every one was hit. At length, however, genius, courage, and time, conquered all obstructions: and the English people, undeceived as to his character, rendered to it a complete, though a tardy, justice.

As an orator, he stood beyond rivalry, and almost beyond comparison. He combined, as has been happily said,

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* See a specimen of these parallels in an extract from Cobbett's "Register," at the beginning of Chap. XLIX.

> "The free movement, spirit, and reality of British Parliamentary debate, with the elaborate perfection of the forum and the agora, and the accessary accomplishments and graces of modern literature."*

It is scarcely an exaggeration to affirm, that in his single person were united all the highest gifts of eloquence which nature had distributed among the most eminent of his Parliamentary competitors. A lucid, close, and forcible logic, effective alike for the establishment of truth, and the exposure of absurdity, hypocrisy, and pretension,—an elevated tone of declamation, appealing not so much to passion, as to what was noblest in thought and sentiment,—a stream of imagery and quotation, rich, various, and yet never overflowing the main subject,—a light "artillery of wit," so disciplined, that not a shot of it flashed without telling upon the issue of the conflict,—an unfailing, yet constantly diversified harmony of period, and a magical command of those lightning words and phrases, which burn themselves, at once and for ever, into the hearer's mind,—these, and all these in their perfection, were among the powers of that eloquence which death had thus suddenly hushed.

Deprived of Mr. Canning, the Ministry did not long survive. Until the beginning of the new year, however, it went on under the following arrangement. The office of first Lord of the Treasury was undertaken by Lord Goderich, and that of Chancellor of the Exchequer by Mr. Herries. Mr. Huskisson, who was now intended to lead the House of Commons, succeeded Lord Goderich at the Colonial Office, and was himself replaced at the Board of Trade by Mr. Charles Grant, afterwards Lord Glenelg. Mr. Sturges Bourne, who had removed, before the death of Mr. Canning, to the Chief Commissionership of Woods and Forests, had been already succeeded in the Home Department by the Marquis of Lansdowne, previously a member of that Cabinet without office. Mr. Tierney entered the Cabinet as Master of the Mint. Lord Harrowby retired; the Duke of Portland became President of the Council in his room; and the Privy Seal, which had been held by his Grace, was transferred to the Earl of Carlisle. The Duke of Wellington resumed the command of the army, which he had resigned in the preceding April, but did not take a seat in the Cabinet.

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* Mr. Therry's Memoir, p. 175.

On this last of the Ministerial arrangements, Lord Eldon's opinion is expressed in the following extract from a letter to Lord Encombe.

Lord Eldon to Lord Encombe.—(Extract.)

(Without date, but received August 26th, 1827.)

"You have seen that the Duke of Wellington, now poor Canning is dead, has taken the command of the army. He holds that this connects him no more with Ministers than if he took the command of the Horse Guards, as I hear. This *is not* inconsistent, though it will *seem* to the public to be so, when it may be said, 'If it does not connect him with 'Ministers, why did he not keep it under Minister Canning?' I happen to know that there is a very satisfactory difference between those two cases. I wish that I was as sure that it does not connect him with Ministers. I am sure he thinks it does not; for an honester man does not live. But—I say no more."

The Duke, having accepted this office, explained his motives to a few of his political connections, through the medium of a letter to Lord Westmorland,—of which a copy was found among Lord Eldon's papers, having been sent to him at the Duke's request by the military secretary, Lord Fitzroy Somerset, with copies of the letters to the Duke from the King and Lord Goderich, and of the Duke's answers.

The Duke of Wellington to the Earl of Westmorland.

"Kingston Hall,
"August 17th, 1827.

"My dear Lord Westmorland,

"I think it possible you may not come here to-day. I therefore send you the enclosed copies of letters which I received this day, by the hands of Lord Anglesey, from the King and Lord Goderich, and of my answers.* I had little

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* *Lord Goderich to the Duke of Wellington.*

"Downing Street,
August 15th, 1827.

"My dear Duke of Wellington,

"I am commanded by the King to transmit to you, by the hands of Lord Anglesey, the accompanying letter from his Majesty. From the bottom of my heart I hope you will accept the King's offer; and I am sure you will do me the justice to believe that my anxiety that you should do so does not arise from anything which may be personal to myself, but from my entire conviction that your return to the command of the army is of the last importance to the best interests of our common country, which can in no circumstances forget what she owes to your long and distinguished services.

"To say more would only be to repeat the same sentiments in other words; and I will only add that I remain,

"My dear Duke of Wellington,
"Ever most sincerely yours,
"GODERICH."

King George IV. to the Duke of Wellington.

"Royal Lodge, August 15th, 1827.

"My dear Friend,

"I write for the purpose of again offering to you the command of my army; and I sincerely hope that the time is arrived when the country will no longer be deprived of the benefit of your high talents.

"Always with great truth,
"Your sincere Friend,
"G. R."

The Duke of Wellington to King George IV.

"Kingston Hall, August 17th, 1827.

"I have received your Majesty's most gracious commands conveying to me the offer of the command of your Majesty's army, which I accept; and your Majesty may rely upon it, that in performing the duties of the high station which your Majesty has most graciously called upon me to fill, it will be my earnest wish and endeavour to give your Majesty the same satisfaction which it has been the happiness and pride of my life to give you or no conversation with Lord Anglesey. It appeared to me, from what he said, that the King wished that Mr. Herries should be Chancellor of the Exchequer; but that Mr. Herries was but little inclined to take that office; and that, in that case, it would be filled by Lord Palmerston.

"You are as well aware as I am of what has passed heretofore between his Majesty, Mr. Canning, and myself, respecting the command of the army. I don't think I could have refused to take the command when thus frankly and fairly offered to me, — the reasons alleged for resigning it no longer existing, — without taking new ground for my refusal, differing from that before taken as the reason for resigning, and inconsistent with my former professions in public, as well as in private, and in writing. I have stated to Lord Goderich distinctly, that I take the command of the army, as of an army in the field, notwithstanding political differences of opinion. I am aware of the delicacy of the position in which I shall be placed, but I think I can overcome that difficulty more easily than I could the abandonment of my professional position, or any inconsistency upon the reasons of my resignation. Believe me,

"Ever yours most sincerely,
"WELLINGTON."

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heretofore, — which is submitted to your Majesty by your Majesty's most devoted subject,

"WELLINGTON."

The Duke of Wellington to Lord Goderich.

"Kingston Hall, August 17th, 1827.

"My dear Lord Goderich,

"I have received your letter, from Lord Anglesey. I have never thought that political differences of opinion ought to prevent me from commanding his Majesty's army at the Horse Guards, equally as an army in the field; and I have written to his Majesty in answer to his most gracious letter, that I accept his most gracious offer of the command of his army, and that his Majesty may rely upon it that, in the performance of the duties of the high station which his Majesty has most graciously called upon me to fill, it will be my earnest wish and endeavour to give his Majesty the same satisfaction which it has been the happiness and pride of my life to give him heretofore.

"Ever yours,
"WELLINGTON."

Lord Eldon having written to the Duke on the subject of these communications, received the following answer from his illustrious friend: —

The Duke of Wellington to Lord Eldon.

"Strathfield Saye,
Sept. 1st, 1827.

"My dear Lord Eldon,

"I am very much obliged to you for your letter; and as I had not heard from you on the subject of that one, which I had desired Lord Fitzroy Somerset to show you, I intended to write to you. I certainly thought and wished that there should be no mistake, in regard to the principle on which I accepted the office of Commander-in-Chief, and to the relation in which its acceptance would place me to the politics of the Government. In regard to the acceptance of the office itself, I had declared myself in public as well as in private, and in writing to his Majesty and to his late Minister; and I had likewise declared in Parliament the relation in which I should stand to the politics of the Government. With these declarations before them, the King and his Minister called upon me to give my service, on the ground of the public interests requiring it; and, in accepting, I have again declared my principle. I may have placed myself too high, and, like others, fall from the difficult position which I have assumed. But this is quite clear, viz. that I *have* assumed that position; and there I will remain as long as I can do any good in it.

"I am not astonished that the friends of the Administration should consider this arrangement as a great gain. In one sense it is so. If, on the one hand, the Administration have no claim upon my services out of my profession, I, on the other, can be of no counsel or party against them; and they are certain that one great branch of the service will be conducted according to their wishes."

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"Ever, my dear Lord Eldon,
"Yours most sincerely,
"WELLINGTON."

Lord Eldon to Lord Encombe.—(Extract.)

"Sunday night. (Sept. 9th, 1827.)

"A great many thanks to you for your last kind letter. With respect to the political part of it, as it relates to the Duke of Wellington, though I am perfectly satisfied that, in the present circumstances of the country, he could not refuse to accept the command of the army — and, though he is not in the Cabinet, and disapproves, I believe, thoroughly, the formation of an Administration composed of persons of such opposite public principles, that, if they are all honest in their professed opinions, they never could agree about any interesting public matter,—yet that acceptance cannot but be, I think, a strong prop to the Administration, as the present Opposition cannot possibly, I think, have the benefit of his counsel and advice against the Administration, if they choose to adopt measures which he may think ought not to be adopted, but which the Commander-in-Chief may be obliged to execute. Besides this, all experience proves, that when individuals come frequently into company and contact with each other, they soon like each other better than they did before; they soften as to their differences, and the oil and vinegar begin to lose their repugnant properties, and to amalgamate with each other as if they were substances of the same nature. Among those who, towards the end of the Session, were the determined friends of Wellington, Peel, and Eldon, the opinions, as to W.'s acceptance, are various. Some think he ought not to have accepted — some that he ought — some that he should have made conditions — and some that he should have told his Majesty plainly, that he must change his Administration, and take the late Ministers; and that, upon that condition only, he would command the army. This last opinion, I am sure is wrong — for I have seen enough of the feelings of the people of this country to be sure that they will have their King (let them ever so heartily dislike measures) talked to *as* a King — that they will not bear any person's dictating to him — that they will not endure a Sovereign over their Sovereign — and particularly, that they would never endure a person's holding such language to the King, whom they would consider as a military man, confiding in the attachment of the army to him; which army he, as a good subject, should, by every proper means in his power, endeavour to attach to the Sovereign. After all, though I think he could not refuse to accept, because the country has not another man in it fit to command the army, I think the acceptance, though unavoidable in my opinion, will nevertheless be the cause of much, that, with my principles, I shall have to lament. The members of the motley Administration and their adherents think they have gained a vast advantage.

"So much as to the *salus publica*."

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Lord Eldon to Lord Stowell.—(Extract.)

"Saturday night; (from Encombe, probably Sept. 1827.)

"I think Lady Eldon is *somewhat* better. Nothing can be more certain than that she received benefit here last year, and Pennington urged her coming here again this year. The loneliness of the place is far from being an object of distaste with me. Besides, we are now getting, close by, what grieves me, as likely to destroy the beauties of loneliness—we are getting a nuisance here at Swanage, of a bathing place of much resort,—and this spot unfortunately becoming a lion for those to look at who resort there.

"As to being out of a town where nobody that comes into or goes out of my house has not been watched, and known to political persons upon the watch, for some months, I was eager for that, among other reasons, to leave town, upon which I will tell you more than I now write when we meet. It is perhaps unfortunate too, that having been accustomed, ever since I was called to the Bar, to be out of town during vacations, I have an anxiety to continue that (perhaps not commendable but really irresistible) as long as I can. I have all my life disliked going to bathing or public places, or visiting other folks at their homes—and now I can't spend my time at inns, when I am out of town. This led me to (perhaps a foolish measure) buying this place, which we have been very fond of now for twenty years; and after the very great expense of the various improvements, which in the house, gardens, and grounds, I have been at, I cannot bring myself to throw all that away—which would be infallibly the case if we did not occasionally reside here. We shall probably make a much shorter stay, however, than we did last year, — I think certainly. Being absent from your society I can assure you I feel very painfully: as to any other society in London, I should be quite content to have done with it entirely."

Lord Eldon to Lady Elizabeth Repton. — (Extract.)

(Franked November 4th, 1827.)

"We are now here already some days beyond the day in which, in any former year, we could remain here. It is at least as pleasant as sitting in Lincoln's Inn Hall among the lawyers. Shadwell informs me by letter of his appointment; his letter is towards me a very handsome one. My old acquaintance, who is gone to Ireland*, has not thought it necessary to pay me the same compliment; indeed, commencing a Chancellorship at seventy-three is so foolish a business, that perhaps he thought it most advisable to be silent. Fanny is very well. We all join in affection to you, and I am, Yours ever, ELDON."

With the year 1827, ends also the Anecdote Book of Lord Eldon. He thus concludes it: —

"Here I close this volume, which, at different idle moments, and without much attention to the fact whether matters recorded in it, deserve to be remembered or not, and for the amusement of my grandson, has been formed. To his custody the volume is committed, under a conviction that no communication will be permitted by him, either of its contents or of any part of its contents, save only where that communication may be made without prejudice to the character of his ancestor."

Never was a caution less required. Many of the anecdotes and recollections which that book contains are omitted indeed from this biography, as being already known, or as not possessing that sort of interest which would make them acceptable to the general reader; but neither in that volume, nor in any of the correspondence which has been perused for the purpose of this work, amounting to upwards of 2,000 letters from Lord Eldon to various persons, chiefly members of his own family, with whom he would naturally have had least reserve, has there been found one sentence, which his enemies, if any such survive, could have distorted to the disadvantage of his high and honest fame; no underhand motives — no meannesses — no duplicity — no silly vanity — no offensive egotism—not one of all the littlenesses that so often raise a laugh against wise men, and a sneer against great ones.

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* Sir Anthony Hart.

Most of those anecdotes and recollections in Lord Eldon's manuscript volume, which do not peculiarly attach themselves to any ascertainable date in this biography, seem to find their place conveniently here, at the point of time where that volume closes.

"The Lord Sandwich who was First Lord of the Admiralty (in 1771), was, as the world said, very profligate and without religious principles. Dr. Scott of Simonburn dined at his table, and, as report stated, was about to say grace before dinner, when Lord Sandwich said, 'Stay, doctor, I have a chaplain of my own, who is coming into the room;' and immediately a monkey was introduced dressed in canonicals. Scott then apologised for having obtruded his services, assuring Lord Sandwich that he did not know his Lordship had a relation in orders."

"Alderman Watson, when bathing in the West

Indies, had the misfortune to lose his leg by the bite of a shark. Some years afterwards, when he and Wilkes were both in the House of Commons and a tax upon attorneys was proposed, Alderman Watson spoke strongly in favour of the tax, and inveighed warmly against the attorneys in general. Somebody asked Wilkes what made his brother alderman so severe upon the attorneys? 'Why,' said Wilkes, 'my brother alderman was bit by a shark when he was young, and has never forgiven it.'"

"When Mr. Harley was Lord Mayor, Wilkes having done some discreditable act, Harley told him that he should inform the Livery what he had done. 'You may do so,' said Wilkes; 'I shall deny it, and that will be enough with them to induce them to think you a liar and me a most honourable man.'"

"When the Duke of Richmond was Lord Lieutenant of Ireland, he took frequent occasion to remonstrate with his company against the prevalent practice in Ireland, of duelling upon trivial occasions. A young gentleman, who sat next him, stated his opinion as concurring with the Duke's, observing that he was never out but once, and that *that* was not to fight himself, but, as his father was to fight, he wished to see that the old boy behaved well."

"George IV. when Prince of Wales, met with a Highland soldier, very far advanced in years. He asked him whether he had ever been in England before. He answered shyly, 'Yes, once, —as far as Derby.'— That was when he was in the Pretender's army."

"When even a most worthy man is surprised into doing an act, which, not under the influence of surprise, he would not have done, he is hurried into maintaining that he is right and has done no wrong, though perhaps he was the last man in the world who would have done the act, or attempted to justify it, if *not* taken by surprise. I remember a Kentish clergyman, named Mr. B * * *, who was as worthy a man as ever lived, and who, in September, had leave to shoot upon a gentleman's estate, who was out with him, and upon a fine cock pheasant rising, shot at it, and brought it down. 'Mr. B. * * *,' said the gentleman upon whose estate they were shooting, 'this is too much. You had my leave to shoot upon my estate, and, not content with the ample sport you have had in killing partridges, you kill — before the season commences, and before my face — this pheasant. This is too much — it is past bearing.' 'Sir,' said B * * *, under the influence of surprise and misery, 'what, do you call that a pheasant? It is a partridge, and nothing but a partridge.' After repeating this two or three times he recollected himself — made no apology for what he had *done* — for any man, an eager shot, may kill a pheasant that rises before him in September — but prayed forgiveness for what he had *said* after he had shot the bird, and hardly forgave himself."

" Mr. Morton Pitt, member for the county of Dorset, established, in the parish of Corfe Castle, a ropery to employ the poor. George Rose, Secretary to the Treasury, Morton Pitt's acquaintance and friend, thought the Government ought to encourage this act of provision and kindness for the poor, and contracted with Mr. M. Pitt for a few hundred pounds' worth of cordage. The Act of Parliament occurred to neither of them; but, soon afterwards, Mr. Morton Pitt, in consequence, it is reported, of threats that if he sat and voted in Parliament he should be sued for the penalties *as a contractor*, was obliged to be re-elected to represent the county."

"At the Lord Mayor's dinner on the 9th November, at Guildhall, it is customary for the crier to give the toasts, by stating that the Lord Mayor, the Lady Mayoress, the noblemen present, naming each, the different aldermen, naming each, and others, drink the health he is instructed by the Lord Mayor to mention. On one 9th of November, when toasts considerably more than a dozen had been given, a person at the bottom of the Hall having got somewhat intoxicated, upon hearing that the Lady Mayoress's name was given out, as one of the parties drinking a fourteenth or fifteenth glass, exclaimed, to the great amusement of the company, 'Bless me, how drunk the Lady Mayoress must be by this time!'"

"I went once with Lord Wellesley to Windsor to wait upon the King. He had formerly represented Windsor, and (as in most boroughs) they have an active clever voter of the lower order of voters, of great use in elections. He mentioned to me that, standing upon the interest of the Blues, he employed one of those clever fellows as a sort of lower agent against his opponents the Yellows. This fellow, he said, had a wooden leg, which, upon this occasion, was painted blue; but having, as his habit was, got very drunk, and being found at night lying in the streets, some of the opposite party painted his wooden leg yellow. When he waked in the morning he found himself laughed at and ridiculed by a great body of the Yellows, congregated to enjoy his distress. He immediately sent to the bellman to go round the town of Windsor and desire the attendance of all people at a fire, in the street named by the bellman, there to meet him. When the assembly was gathered together, he took off his yellow leg, and loudly proclaimed that as Cranmer burnt the hand, the sight of which he could not endure, so his conscience obliged him, whatever pain it cost him, to allow the flames to consume his leg, and committing the yellow leg to the flames, he, amidst the applause of all around, pulled out a new blue leg from under his coat, affixed it to his thigh, and desired their company to the hustings to support Lord Wellesley (then Lord Mornington), their Blue candidate."

"There was a low fellow, at an election at Newcastle which I attended (of much the same sort of character as the Windsor person mentioned in the preceding article), who made a great many speeches, that, however singular they were, were of great use to the candidate he supported, among his fellow-voters, the freemen of the lower orders. One of the candidates, whose residence was within five or six miles, addressing the numerous electors, stated, that the law would not allow him to entertain them at his seat during the election, but that, when he could lawfully invite them, he should hope frequently to have the honour of their company to dine there. The other candidate was Sir John Trevelyan, who lived in Somersetshire, some hundred miles distant from Newcastle, who was silent: upon which this fellow said: ‘ Gentlemen electors, as Sir John says nothing for himself, allow me to say something for him, and to assure you that Sir John will also be extremely happy to have the honour of your company to dine with him at his seat in Somersetshire; but he recommends it to you to provide for yourselves in going and returning, to get your dinners where you can in the eight or ten days of going, and as many in returning, and to choose moonlight nights for your journey; and I recommend to you to consider whose dinners you will like best, your neighbour's, or the Somersetshire gentleman's.’ This stuff had a considerable effect.”

“ After Captain Parry returned from his voyage of discovery, he was asked, at a dinner party where my successor and predecessor Lord Erskine was present, what he and his crew had lived upon when they were frozen up in the polar sea. Parry said they lived upon the Seals. ‘ And very good living too,’ said Erskine, ‘ if you keep them long enough.’ ”

To these stories the present Earl has added three others, not set down in the Anecdote Book, but related to him by his grandfather: —

“ A friend of mine,” said Lord Eldon, “ went out of curiosity to hear the harangues delivered at a debating society, which met in the neighbourhood of the courts of law. He heard one of the orators talking most seditious language, and at last venturing to give a Greek quotation, in support, as he was pleased to declare, of the democratic views which he had been taking. ‘ Gentlemen,’ the speaker cried, at the highest tone of his voice, ‘ the poet Homer has this sentiment:

Τὸν δ' ἀπαμειβόμενος προσέφη κρείων Ἀγαμέμνων·

which is to say, All government is founded upon the consent of the people.' The unlucky wight had relied too far on the ignorance of his audience. The uproar was instantaneous and immense, and he was forthwith ejected from the rostrum which he had so audaciously disgraced."

"Under the old bribery laws an artful fellow contrived the following cheap and safe trick for getting into Parliament, as the representative of a corrupt borough. At an election there, prior to the occasion on which he calculated that his object would be accomplished, he presented himself as a candidate, and, making no promises or presents, obtained, as he had expected, very few supporters. With these few, however, numbering some half dozen, he went to the poll; and, shortly afterwards, sent a handsome amount of head-money to each of them. This was soon noised abroad, and produced the expected effect upon the electoral mind throughout the borough. At the general election he re-appeared; was received with universal acclamation, and came in at the head of the poll, without giving or promising sixpence. The head-money was naturally expected as before; but this expectation was never realised. Of course the honourable Member could never show his face in that borough again; but, at least, he had been a Member in one Parliament without danger and without cost."

A modern alteration of the law has precluded the repetition of this cheat; for a distribution of head-money is now made illegal, though it be long after the election, and even though it be not in fulfilment of any promise prior to the polling.

"The late Lord Commissioner Adam was, for many years, a personal friend of King George IV., and filled some high appointment in the Duchy of Cornwall, under his Majesty when Prince of Wales. He was appointed to the Jury Court in Scotland, upon its first establishment; upon which a wag asked, 'Why is the Jury Court like Paradise?' and answered his own question by saying, 'Because it is a *place* made for *Adam*.' This joke Lord Eldon was fond of repeating; and he always added to it this counter question and answer: — 'Why is the Jury Court *not* like Paradise?' 'Because there is no getting Adam out of it.'"

CHAPTER LI.

1828.

DISSOLUTION OF LORD GODERICH'S MINISTRY, AND FORMATION OF THE DUKE OF WELLINGTON'S: LETTERS OF LORD ELDON TO LADY F. J. BANKES, AND OF MR. PEEL TO LORD ELDON. — OPENING OF SESSION: LORD ELDON'S SUPPORT OF THE ADDRESS.—LETTERS OF LORD ELDON TO LADY F. J. BANKES. — LORD ELDON'S SPEECH ON BATTLE OF NAVARINO. — LETTERS OF LORD ELDON TO MRS. H. RIDLEY, AND LADY F. J. BANKES. — REPEAL OF TEST AND CORPORATION ACTS: LORD ELDON'S SPEECHES AGAINST IT. — LORD ENCOMBE'S DEGREE: LORD ELDON'S LETTER TO MRS. FARRER. — LETTERS FROM LORD ELDON TO LADY F. J. BANKES. — PITT CLUB ANNIVERSARY. — RETIREMENT OF A SECTION OF THE MINISTRY. — CATHOLIC QUESTION. — LETTERS OF LORD ELDON TO LADY F. J. BANKES AND LORD STOWELL, AND OF LORD REDESDALE TO LORD ELDON. — LETTERS OF LORD ELDON TO LORD HOWE AND LORD STOWELL.

Parliament was appointed to assemble for the Session of 1828 on the 29th of January; but the new Ministry was not destined to meet it. The close of the year 1827 had been marked by manifest signs of disunion between certain sections of the Cabinet; and Lord Goderich, harassed with their dissensions, and hopeless of surmounting the personal and political difficulties of the time, resigned his office on the 8th of January. The following letter refers to some unsuccessful efforts which were made for supplying his loss:—

Lord Eldon to Lady F. J. Bankes.

(About Jan. 1st, 1828.)

"Lord Powis has declined accepting the blue riband that Lord Pembroke had. It was offered to Harrowby, if he would undertake to form an Administration: but he would not, — to which I may add, he could not. Lord Powis stated to his Majesty, in a most respectful letter, that he could not, in accepting, do an act which might be thought inconsistent with opposing a Ministry, which he thought himself conscientiously bound to oppose.

"The supposed intention of this offer was, that it should have some influence upon the support of the Duke of Northumberland, Lord Clive, &c. &c. The riband is now supposed to be offered to the Duke of Portland.

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"I believe the world here are now pretty well satisfied that I have not come here for the sole purpose of intrigue, cabal, and holding conclaves for political purposes, the ministerial (papers) having, when they stated me to have political meetings in Hamilton Place, unluckily brought company together, of many who have not been in town."

The King now sent for the Duke of Wellington to re-construct the Ministry, who was forthwith joined by several of his former colleagues, Mr. Peel undertaking the leadership in the House of Commons.

Lord Eldon to Lady F. J. Bankes.

"Jan. 12th, 1828.

"You will probably have heard from Bessy that there is an end of the late Administration. This is certainly fact: Lord, Duke of, Wellington being charged and empowered by the King to form a new one. So the Duke writes to me in a note, and adds that he shall call upon me. More than this, as to this matter, which I hear engrosses everybody's attention and talk in this town, I have not, at the time I write this, heard. People in general are delighted with the dismissal of the late Administration: there may be more difficulty in forming a perfectly good new one than they imagine.

I hear that Calcraft rejoices that, as he got nothing in the late Administration, he is more comfortable than those who have lost what they got."

Lord Eldon to Lady F. J. Bankes.

"Jan. 25th, 1828.

"The Ministry is now complete.—1. Duke of Wellington, First Lord of the Treasury. 2. Lyndhurst, Chancellor. 3. Bathurst, President of Council. 4. Peel, Secretary of Home Department. 5. Secretary of Foreign Department, Dudley. 6. Colonial Department, Huskisson. 7. Chancellor of the Exchequer, Goulburn. 8. President of Board of Control, Melville. 9. Chancellor of Duchy, Aberdeen. 10. Privy Seal, Ellenborough. 11. Mint, Herries. 12. Board of Trade, Grant. 13. Secretary at War, Palmerston. — Of which are for Catholics, 1. Dudley; 2. Huskisson; 3. Melville; 4. Ellenborough; 5. Grant; and 6. Palmerston. The other seven are as yet for Protestants, but some *very loose.* You will observe, Dudley, Huskisson, Grant, Palmerston, and Lyndhurst, (five) were all *Canningites,* with whom the rest were, three weeks ago, in most violent contest and opposition. These things are to me quite marvellous. How they are all to deal with each other's conduct as to the late treaty with Turkey, and the Navarino battle, is impossible to conjecture. I am told that the Dukes of Rutland and Newcastle have been to the King to express their non-adhesion to this coalition. Lord Lowther has refused office; so that, I suppose, Lonsdale is also dissatisfied. Viscountess Canning has written a strong letter, as Lord Ashley tells me, to Huskisson, strongly reproaching him for joining (I use Ashley's own expression) her husband's murderers. Ashley and the Shaftesburys are with Ministers.

"As the first fruits of this arrangement, the Corporation of London have agreed to petition Parliament to repeal the laws which affect dissenters. Poor Wetherell, who gallantly resigned the office of Attorney-General as a sacrifice to his principles and friends, and who, if he had kept it, would have had a high Law Office, which became vacant whilst the late Administration remained, is sacrificed to Scarlett, who is a

Whig, and who has been in violent opposition to all the Administrations of which I have been a member."

To some part of the public it was matter of surprise that Lord Eldon formed no part of a Government including most of his friends. But his advanced age, for he was now in his 77th year, and his often-declared disinclination to the labour and responsibility of the judgment-seat, made it impossible to expect that he would again undertake the great legal office which he had filled so ably for a quarter of a century: and any merely political station seems to have been regarded as unsuitable for him, in a Cabinet where the prevalent opinions were at variance with his, upon some of the most important questions of the state. It will be seen, however, from his letters to Lady F. J. Bankes, that he was not quite pleased with his former colleagues, for omitting to give him at least the refusal of a seat in their Councils. Mr. Peel, upon coming into office, expressed his own feelings towards him in the following letter: —

Mr. Peel to Lord Eldon.

"Whitehall Gardens, Jan 26th, 1828.
"My dear Lord Eldon, Saturday night.

"It was not until this day, that my appointment to the office of Home Secretary of State was completed by my taking the oaths in Council.

"My first act is to express to you my deep regret, that any circumstances should have occurred, carrying with them the remotest appearance of a separation from you in public life. All the impressions of affectionate regard and esteem for you, derived from long and unreserved intercourse, are much too deeply engraven on my mind to be ever effaced or weakened.

"I am grateful to you for the uniform kindness I have experienced from you from my first entrance into public life, proud of having possessed your confidence, and most anxious to retain, without reference to politics, your personal good will and esteem.

"My return to public life has been no source of gratification to me. In common with the Duke of Wellington, hitherto at least, I have had nothing to contemplate but painful sacrifices, so far as private feelings are concerned.

"For the last ten days, except when I was *compelled* to disregard the commands of my physician, I have been confined to the house. I hope, however, to be able to call on you very soon. It shall be the first visit I pay.

"With the sincerest prayer for your health, and that every comfort and happiness may attend you,

"Believe me, my dear Lord Eldon,
"With true esteem and affection,
"Most faithfully yours,
"ROBERT PEEL."

"The Right Hon. the Earl of Eldon,
&c. &c. &c."

Parliament assembled on the 29th: and in the debate on the first night,

Lord Eldon gave his hearty support to the Address. He expressed his hope that under the arduous circumstances of the country, the Government would not be impeded in their efforts to preserve the peace of Europe. It could hardly be said that there had been an Adminstration in the country for the last nine months. It could hardly be said that there had been a Parliament in the country, which had either considered, or done, anything, for the same period. Under these circumstances, it was high time to look to the most pressing object of British interests — the preservation of the peace of Europe.

Extracts of Letters from Lord Eldon to Lady F. J. Bankes.

"My dearest Fan, "Jan. 30th, 1828; (Wednesday.)

"I promised you yesterday a longer letter. I now discharge that promise.

"The day after the D. of W. received his Majesty's commands to form an Administration, he sent me a note, informing me of that event, and telling me that he would wait upon me. I sent an answer, saying, that if he would name any time for my waiting upon him on that or any other day, I should do so. However, on Friday, I think a fortnight ago last Friday, he called upon me, and, after he had sat down some time, he proceeded to state the difficulties he found himself involved in, from the various conflicting claimants to office — and, being sure that I could not be mistaken in what this was to lead to, I told him that, as I thought he was coming to make mention of the Chancellorship, I desired him not to consider me as a conflicting claimant *for that office* — that if they had any proper person to fill it, it was obvious, from what I said upon the resignation of it, that I could have nothing to do *with that office* (indeed no serious offer, after that, could be made of it). No offer, therefore, was made to me of it, and the Duke left me without more said, except something of repetition as to his difficulties about conflicting claims generally. From the moment of his quitting me, to the appearance in the papers of all the appointments, I never saw his Grace. I had no communication with him, either personally, by note, letter, by message through any other person, or in any manner whatever — and, for the whole fortnight, I heard no more of the matter than you did at Corfe, — some of my old colleagues in office (and much obliged to me too) passing my door constantly on their way to Apsley House without calling upon me. Indeed, no one of them called upon me, except on the last day but one before the settlement was in the papers; but after all was settled, Melville called on me; but, upon this subject, his lips were not opened. In the meantime rumour was abroad that I had refused *all* office: and this was most industriously circulated, when it was found there was, as there really does appear to me to have been, very great dissatisfaction among very important persons on my account, as neither included in office, nor at all, not in the least, consulted. Rumour again stated that I was too obstinate a Tory to be consulted or included. Rumour again stated that the interference of a lady had interposed her all-influential veto. However, there was a degree of discontent and anger among persons of consequence, which, I suppose, working together with its having been somehow communicated that I was much hurt at this sort of treatment, brought the D. of W. to me again — and the object of his visit seemed to be to account for all this. He stated in substance that he had found it impracticable to make any such Administration as he was sure I would be satisfied with, and, therefore, he thought he should only be giving me unnecessary trouble in coming near me, or to that effect. I observed that I supposed that he had not found out this impracticability at the time he came to me about the Chancellorship; if he had, THAT visit would have been only a visit of "unnecessary trouble." That with respect to its being impracticable to form an Administration that I should be satisfied with, I knew no reason, founded on any former conduct of mine, which should have led him to conclude that I should urge impracticabilities, and that, at any rate, it would have been not too much to expect, that, during a whole fortnight, I should (not) have been left ignorant of what was going on, and that I was not to suppose that in that I had any concern* — that though I should have been gratified if an offer had been made to me of the Presidentship of the Council, I did not know that I should have accepted it, and that I was sure that, if the offer had been made, and accompanied with an intimation that my accepting it would embarrass them with respect to any other person, I would not have accepted it. He mentioned, as a probable proof that I would not have fallen into his views as to the Administration, that he doubted that I did not approve it as formed. I told him he was right there, and that I thought it a —— (I must not put the word in a letter, to a lady, or any body) a —— bad one. We conversed together till, as it seemed to me, we both became a good deal affected; he mentioned some things that he proposed to my acceptance as propitiatory — not of much consequence — as to which I told him I would consider of it; for I can do nothing which can authorise the public to think that I can deem anything that could be proposed as compensating for undeserved neglect. I think I have given correctly the substance of what has passed — the very words it is impossible to give. I found it likely that they were not going to restore Wetherell to the Attorney-Generalship, which he resigned nobly when we resigned, and by which step he has lost the Vice-Chancellorship. The D. has sent me word that as he understood that I wished that Wetherell should be restored to that office, he is re-appointed. I am satisfied that with the country all this has raised me, and, as I don't want office, I care not about not having it. Lord Bathurst has, at length, been also with me, protesting in the most strong terms against any intention of disrespect, and expressive of the greatest concern that any part of their proceedings should have hurt me. I have not the least doubt that they have heard from some, if not from many, remonstrance upon the seeming, if not real, ill treatment of me, and that there is, at least, something like contrition on that account. With respect to the part I have begun to take and to pursue in Parliament, it does not become me to appear angry or discontented, or to thwart the measures of Government by treating the Administration, as I think of it, as not a desirable one, at a time when I think, as I avowed last night, in the House of Lords, that a person, sincerely anxious for his country, must feel it to be his bounden duty to interpose nothing that can delay for a moment the most active measures to secure the peace of Europe, likely to be interrupted by the occurrences with the Sultan, and which *perhaps* may be secured, if the present moment is employed for that purpose, instead of being lost in a sort of war at home about places and offices."

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* Sic in orig.

(February 2nd, 1828.)

"All the newspapers seem to be employed in representing to the public, that I, in a conversation with the Duke, when he waited upon me, spontaneously waived all office and all sort of consultation about public arrangements or matters. Nothing can be so utterly false—there is not even the semblance of truth in it—but, there having been a great deal of public feeling upon this subject, the underlings of Administration have resorted to these means of quieting it. They begin in the papers devoted to Government and in its pay, and the matter is copied into other papers. I don't think that what has passed has done me any harm. I have been very busy in receiving and returning the calls of many very respectable persons, and in receiving and answering the letters of others of the same class of persons. I think those who have treated me with apparent disrespect are very sorry for it, and as much (at *least*) hurt about it as I have been. What is the real reason for what has happened, I know not, and it probably neither is, nor ever will be, avowed. A lady probably has had something to do with it. At the same time there may be something in the Duke's saying that some of my opinions had something to do with this, for nobody can read the late speeches of Lord Palmerston and Vezey Fitzgerald, without being apprehensive that most dangerous concessions are about to be thought of to the Catholics, such as, shortly and surely, will shake the foundations of the Protestant Church."

"Feb. 9th, 1828.

"The character of the Ministry is given very much in the same words by everybody: — 'It is better than the last, but it is not what was wished and expected. It will be supported, but not cordially.'"

The battle of Navarino was discussed in the House of Lords on the 11th of February, when Lord Eldon made a short speech, vindicating the conduct of the Turkish admiral.

I am an Englishman, said he, an old Englishman; I have English habits and English feelings; and I have no hesitation in saying, that if a Turkish or a French fleet came close alongside an English fleet in one of our own ports, as the English, French, and Russian fleets did in the bay of Navarino, and if the commander of the English fleet did not fight them because they came there, he would deserve to be employed no longer. The law of England says that if one man holds his fist in the face of another, even though he do not strike him, it is an assault; so might the advance of the combined fleets be considered an assault upon the Turks.

Lord Eldon to Lady F. J. Bankes.—(Extract.)

(1828: probably February); House of Lords.

"I don't know whether I told you that Princess Lieven asked me, at the Duchess of Kent's, why I was not a Minister. An impertinent interrogatory! She asked me for a sincere answer. I told her I would give her a sincere answer. My answer was, 'I don't know why I was not a minister!'"

Before the close of February, in consequence of a suggestion made the preceding month, in a very kind letter from Lord Eldon to his grandson, that the time was come when it would be proper for the latter to have a residence and an establishment of his own, Lord Encombe ceased to be an inmate of Lord Eldon's abode, and took a house in Piccadilly, very near his grandfather.

Lord Eldon to Mrs. H. Ridley.

"Dear Fanny, (Franked, London, March 3rd, 1828.

"I am quite unable to inform you whether K. or D. of W., or P., have received any such communications as you inquire about. I begin to think that what D. of W. said to me (that my opinions and principles were so fixed upon certain points, that it was somewhat impracticable to form an Administration with sentiments conformable with those opinions and principles) may be correctly true. He told me that P. would not accept office without Huskisson; and *report* uniformly represents that Huskisson would not accept office, if Lord Eldon was to be in office. This may be a clue to the truth: for if Peel would not accept office, the D. of W., I am sure, could not form an Administration that could begin work in the Commons. But then I say we old ones should have met Parliament *out of office—all of us*—and a very little time would have ensured the country against that sad evil, "a coalition Ministry:" of that I have no doubt—and I am as much of an old fox in these matters as Mr. Tierney. As to office, I would not step across the street to be placed in it on my *own* account. I could get *nothing* by it—its emoluments, *as such*, are not worth my having—for my pension is larger than those of any office that I could have accepted; and from the pension the emoluments of office would be to be deducted. But then they might have given me an opportunity of offering my services to the country, and relieving it from the pension, to the extent of the emoluments of office. It is not because office was not offered me that I complain — it is because those with whom I had so long acted and served did not, candidly and unreservedly, explain themselves and their difficulties to me. And they were not mine adversaries that did me this dishonour, but mine own familiar friends, with whom I had, for so many years, taken sweet counsel together."

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Extracts of Letters from Lord Eldon to Lady F. J. Bankes.

"March 15th, 1828.

"The newspaper has given the public a fine paragraph, representing me as elected, in the House of Lords, Speaker, during the absence of others. I think you know I am too proud for that. There's not a word of truth in it. I sat there, part of one morning, to give a finish to a Scotch cause, which had formerly been heard in my time and sent back to the Scotch Courts, from which it had been now returned; and curiosity led me to be present at another Scotch cause, in which a Scotchman *says* he married a female in *April* 1816, and, she having married another Scotchman in *May* 1816, the gentleman, who alleges that he was married to her in April, — attending the second marriage in compliment to the parties, attending their wedding dinner, accepting wedding gloves, and leaving the lady in quiet possession of the new husband by whom she has four children, and constantly associating with them, — finds it convenient to set up a first marriage in consequence of the lady's having become entitled to a large fortune, with which he is desirous to take her to his own arms, leaving the four children to the care and protection of the second husband. In this project, with the assistance of a Scotch Court, this worthy, delicate first husband, as he calls himself, has succeeded; and, upon the appeal to the House of Lords, I have gone to hear it out of curiosity, and with a wish to find it possible to defeat such an iniquitous business; but as to Deputy Speaker — that will never be what I can submit to: my pride, honest and reasonable I hope, is above that — much.

"Postscript. Poor Reay left this world, I trust for a better, the day before yesterday."

"Friday, (March 28th, 1828.)

"I went to the levee yesterday — form requiring that ceremony at the first levee after quitting office. The multitude there was very great — the King, I thought, did not look well — he could not, or did not, stand up to receive his company, but each person passed him sitting in a great chair; and, as it appeared to me, the ceremony between him and 99 out of 100 of the company was no more than their merely bowing their heads to him as they passed, and he in return bowing his head to them. It came to my turn to pass. I thought he appeared a little of what I should call, for want of a better word, 'flustered;'—he could not, I think, see that I was approaching him till I was close to him. When I made my bow, he held out his hand to me, and shook hands with me, and said, 'My Lord, fresh air seems to have done you a great deal of good.' I then moved on, and that was all that passed with me at that moment or afterwards. In due time, Encombe, who was to be introduced, and who was most gaily and handsomely dressed, but had been by the multitude well squeezed, to the detriment and injury of his laced ruffles, and whom the pressure of the company had made not a little hot, arrived towards the King, and the Marquis of Winchester having announced him, he kissed hands, and was moving off, when the King, recollecting him, as he was withdrawing with his face towards his Majesty as the usage is, nodded to him with apparent earnestness, and as well as I could hear, asked very kindly how he was, and obviously meant to show him attention and kindness. And so ends my account of the ceremonials of the day, upon which I forbear comment."

(April 1828.)

"I suppose the Dissenters' Bill will pass the Commons to-day *, and be brought up to the House of Lords, where, I presume, we shall not debate it till after the holidays. We,

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* The bill for the repeal of the Test and Corporation Acts.

who oppose, shall be in but a wretched minority, though the individuals who compose it will, as to several, I think, be of the most respectable class of Peers: but the Administration have — to their shame, be it said — got the Archbishops and most of the Bishops to support this revolutionary bill. I voted as long ago as in the years, I think, 1787, 1789, and 1790, against a similar measure; Lord North and Pitt opposing it as destructive of the Church Establishment—Dr. Priestley, a dissenting minister, then asserting, that he had laid a train of gunpowder under the Church, which would blow it up; and Dr. Price, another dissenting minister, blessing God that he could depart in peace, as the revolution in France would lead here to the destruction of all union between Church and State. The young men and lads in the House of Commons are too young to remember these things. From 1790 to 1827, many and various have been the attempts to relieve the Catholics, but through those thirty-seven years nobody has thought, and evinced that thought, of proposing such a bill as this in Parliament, as necessary, or fit, as between the Church and the Dissenters. Canning, last year, positively declared that he would oppose it altogether."

(April 1828.)

"Bessy having acted the part of secretary yesterday, — and a lady, filling that character, seldom failing to fill the letter she writes with all that can occur to her as good matter for correspondence and communication, — the incidents of the world since yesterday can leave me nothing to add as to news or occurrences that can be unknown to you.

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"The Dissenters' Bill is to be debated in the House of Lords on the 17th, — we, who oppose, shall fight respectably and honourably; but victory cannot be ours. All the Whig Lords will be against us: as Government began in the Commons by opposition, and then ran away like a parcel of cowards, I suppose Government also will be against us; — but what is most calamitous of all is, that the Archbishops and several Bishops are also against us. What they can mean, they best know, for nobody else can tell — and, sooner or later,— perhaps in this very year — almost certainly in the next, — the concessions to the Dissenters must be followed by the like concessions to the Roman Catholics. That seems unavoidable, though, at present, the policy is to conceal this additional purpose. But I must weary you on this subject."

"Saturday, April 12th, 1828.

"We, as we think ourselves, sincere friends of the Church of England, mean to fight, as well as we can, on Thursday next, against this most shameful bill in favour of the Dissenters, which has been sent up to us from the Commons — a bill, which Peel's declaration in the House as to the probability of its passing in the Lords, has made it impossible to resist with effect. As the bill is constructed, it operates not merely for Protestant Dissenters, but, unless the language of it can be materially altered in the Lords' house, it appears to me to be equally favourable to Roman Catholics, Deists, Infidels, Turks, Atheists. How the Bishops can have overlooked its extensive and deplorable effects, is to me the most strange thing possible. If the Lords won't, at least, alter it, which I don't believe they will, I don't see how, if the Commons act consistently with themselves, Sir F. Burdett can fail in his motion on the 29th, in favour of the Roman Catholics. The state of minds and feelings in the Tory part, and aristocratical part, of the friends of Liverpool's Administration, is, at present, excessively feverish, and they support Ministers, because they know not where to look for others. It's obvious that the Ministers, who were Canning's followers, to use a vulgar phrase, rule the roast, or at least have too much influence."

The acquiescence of a portion of the Episcopal Bench, in the repeal of the Test and Corporation Acts, was so annoying to Lord Eldon, that he manifested some asperity on that subject when the bill was passing through the House of Lords. The first discussion there took place on the 17th of April, when Lord Holland, who had the conduct of the bill, moved the second reading of it. Neither in that, nor in any subsequent stage, was there any division upon the principle of the bill, the opponents of that principle composing too small a minority to allow with prudence a precise exhibition of their numbers; but the debates were long and earnest, and many attempts were made, and divisions taken, in the Committee and on the Report (though with little success), to modify the measure by amendments. On the second reading,

Lord Eldon condemned the measure, as a sacrifice of the substantial securities of the Church of England to the principle of supposed expediency, declared in the preamble. The principle of expediency was a low ground of legislation. That Church, he contended, was not an establishment erected for mere purposes of convenience, but was essentially and inseparably connected with part of the State. The sacramental test, for which it was now proposed to substitute a mere declaration, was well calculated to maintain that connection; and it was in vain to talk of substituting for that test any other provision, if the provision to be so substituted was of inferior efficacy. The Constitution required that the Church of England should be supported: and the best way of affording that support to her was to admit only her own members to offices of trust and emolument. Their Lordships should take care that they did not put those asunder whom the Constitution had joined together. The petitions in favour of this bill, were generally expressive of hostility, not only to the imposition of tests, but to the Established Church itself. In the reign of George II. a series of indemnity acts had been passed, and it was now represented as an inconsistency to have gone on passing indemnity acts year after year, instead of at once abolishing the law which they were intended to suspend; but he considered those annual indemnities as so many recognitions of the principle of the Test and Corporation Acts,—as so many declarations of Parliament that they were Acts which ought not to be repealed. He could not consent, then, thus to give up the Church and the Constitution together. He could not do this: it must be the work of others: be they within or without the Church, it mattered not to him. His prayer to God was, that the individuals who promoted this measure might have afterwards the satisfaction of thinking, that as they had intended no mischief to the Church, no mischief had ensued. But at the same time that he gave them credit for sincerity, he claimed a similar allowance for himself when he solemnly said, as he then did from his heart and soul, "Not content" to the present bill.

Another debate took place, April 21, on the order of the day for going into Committee. On this occasion,

Lord Eldon, in arguing that the existing securities were part of the British Constitution, relied upon the establishment of analogous tests in Scotland, where it was a condition of office that the Confession of Faith should be subscribed. The Act of Union had provided that the Church of England should be inviolably preserved; and that was not merely a simple declaration, nor confined to the laws therein specifically mentioned, but it was a declaration that all and singular Acts then in force, not merely for the preservation of the doctrines, worship, discipline, and government of the Church, but for the preservation of the Church itself, should remain and be in full force for ever. He admitted that no legislator could legislate inviolably for posterity; but still posterity ought not, without ample reasons, to legislate against laws which two contracting nations had laid down as fundamental. The King himself was included in these constitutional obligations; and when reference was made to the thousand petitions on their Lordships' table, — he knew, though he would not say, in what way they had been obtained, — stating that it was a degradation to any man, and against all true principles of Government, to have such tests, their Lordships, he hoped, would let him remind them, that his Majesty was obliged to take the Sacrament; and, before he began to exercise the Royal functions, was obliged to submit to that which those petitions stated to be a degradation. Why did their Lordships impose it upon the King, if they considered it improper to subject persons to it who filled inferior offices?—His opinion was, that the Church of England, combined with the State, formed together the Constitution of Great Britain, and that the Test and Corporation Acts were necessary to the preservation of that Constitution. His noble friends said, it was time enough, when any danger to the Constitution arose, to legislate for that danger; but he could never agree to that doctrine: he would rather rest the safety of the Constitution on those securities with which it was at present surrounded, than run any risks on the chance of future legislation. He therefore intreated those who were the guardians of the Church, to pause before they allowed her to be stripped of these safeguards, by which she had been so long protected; lest those miseries, from which she had so happily been rescued, should return, in which case they would have to look again to the restoration of the Constitution such as it was established in the time of Charles II., and look perhaps for such restoration in vain.

In Committee, on the same day, he moved amendments, upon which there arose some altercation between him and the then Bishop of Chester, Dr. Blomfield, respecting the consistency of each. The principal of these amendments, which went to substitute an *oath* for the proposed *declaration*, was negatived by a majority of 100 against 32. On the report, 24th April, he moved another amendment for introducing into the preamble some words declaring all the Acts for the establishment and maintenance of the Protestant Religion "to be in full force for ever." The object of this amendment was to prevent the Roman Catholics from deriving from the bill any argument for the repeal of their disabilities. It was considered, on the other hand, that such a declaration would go to prejudice the question of such a repeal; and as the general feeling was that the claims of the

Roman Catholics ought neither to be damaged nor to be promoted by the present measure, the amendment was rejected. The majority was 71 against 40. The further consideration of the Report being adjourned to the following day, Lord Eldon attempted other amendments with a similar object. Some of these he allowed to be negatived without a division; but he pressed the principal one, which proposed to insert, in the declaration, the words "I am a Protestant."

In enforcing his argument for this insertion, he defended himself against the imputation made upon him by the Lord Chancellor, of having exercised his talents, his powers, and his zeal in a mischievous manner upon this bill. He trusted that he had too long engaged the attention of Noble Lords in that House, not to receive from them a patient hearing, while he replied to such a charge, coming from such a place, and such an authority. He had served his country to the best of his abilities; he had endeavoured to be a useful servant to the country; and, if he were now engaged in anything calculated to be mischievous to the interests of the public, he prayed to God that he might be forgiven; but he solemnly declared his belief that he could never be engaged in anything so mischievous as the forwarding of this measure. He was well aware of the fate of the amendment which he now proposed; but such was his conviction of the evil consequences to be apprehended from this bill in its present form, that if he stood alone, he would go below the bar and give his vote against it; and were he called that night to render his account before Heaven, he would go with the consoling reflection that he had never advocated any thing mischievous to his country. He cast back the imputation which had been sought to be thrown upon his conduct by the Noble Lord on the Woolsack, with all the scorn of a man who felt himself injured. The clergy and the members of the Establishment in general had been praised for having abstained from petitioning against this bill. He did not know that this was fit matter of eulogium. If restless activity on the one side was to be met by dormant apathy on the other, let the consequences rest on those who neglected to exert themselves. No man could entertain a higher respect than he did for the Bench of Bishops; but they must pardon him for saying that the support which was given by some of them to this measure was not in his opinion calculated to strengthen the Established Church.

The House divided upon Lord Eldon's main proposal for inserting the words "I am a Protestant," and rejected it by 117 against 55.

On the third reading, 28th April, Lord Eldon renewed his attempts to modify the bill. He said,

> That if the British Parliament were to legislate on this principle, that a State had no right to inquire into the religious feelings of a man before he was admitted a member of a governing community, there would be an end to the foundation on which the Constitution of this country rested. He considered this declaration quite insufficient; because any man who took office might say, he was not doing any thing "by virtue of his *office*" to overturn the Established Church; what he did would be by virtue of his conscience, and its dictates would lead him to do every thing in his power to overturn the ecclesiastical establishment to which he was opposed.

In a further stage of the debate,

> He explained that he had never desired to retain the sacramental test, if any other *equivalent* security could be substituted.

He renewed, on the same evening, his former motion to introduce the words "I am a Protestant," which was negatived by a majority of 154 against 52.

After some further discussions, the bill passed, and is now the Statute 9 Geo. 4. c. 17. Lord Eldon, maintaining his principles to the last, availed himself of his privilege to enter against it a protest, which was signed by the Duke of Cumberland and nine other Peers, Lord Eldon included, and stands upon the Journal of the 28th of April 1828.

Lord Eldon to Lady F. J. Bankes.—(Extract.)

(Franked April 30th, 1828.)

"I am hurt, distressed, and fatigued, by what has lately been passing in the House of Lords. I hope reflection may enable me, but I fear I cannot reasonally hope that it ever will, to account rationally for the conduct of the Bishops. It is not rationally accounting for it to say that they were afraid that something worse would happen if they did not agree to this measure: fear and timidity produce, in state matters, the very consequences which they are alarmed about. In Charles I.'s time, Mr. Hyde, afterwards Lord Clarendon, expressed his astonishment to the virtuous Falkland, that he could give a particular vote against the Church. The answer was, in the very language of this day, indulge the enemies of the Church in this vote, and they will ask no more. Such is the very talk, the foolish talk, of this day. The historian observes, that after this was granted, everything more was asked that could be asked, and though Falkland had also said that the friends of the Establishment would successfully oppose everything more that was asked, they durst not venture opposition to any one further demand of the discontented.* History is written for our instruction; but we may as well not trouble ourselves with reading the pages of history. * * * * * I have fought like a lion, but my talons have been cut off."

Lord Encombe took his Bachelor's degree on this 30th of April. Early in 1835, a few months after his first entrance at the University, Lord Eldon, in a letter addressed to Mrs. Farrer, on the question of his grandson's claim to graduate as a Nobleman, had written thus:—

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* Lord Clarendon:—History, (8vo. Oxford, 1707.) Vol. I. 235—429.; II. 356.— Life, (8vo. Oxford, 1759.) Vol. I. 101.

"When, upon the *fourth* offer of an Earldom, I accepted it, it became a matter of great nicety to find out that a grandson was entitled by courtesy to the use of the second title,—a claim which some persons, conversant in heraldry, absolutely denied, but whose opinions were overruled by the force of about two precedents. Yet these things are very whimsically arranged: for though such is the case with respect to the courtesy, tables of precedence in general give no place to an earl's grandson, and therefore giving place, as they do, to an earl's son, place the son in a degree of precedence to the grandson who is not named, though the grandson is the heir apparent."

There being some anomalies of this kind, at Oxford, still uncorrected when Lord Encombe took his degree, he was precluded from the privilege now incident to his rank. "Although," says he, "I had been desired, when an Undergraduate, to wear the Nobleman's dress, I was not allowed to take my degree earlier than the usual course. Individually, I was very well pleased to stay at Oxford the full time, but the authorities there, admitting the statute to be faulty, altered it as soon as I had taken my degree, though very properly not sooner, lest they should be said to show undue favour to the grandson of the Lord Chancellor, their own High Steward."

Extracts of Letters from Lord Eldon to Lady F. J. Bankes.

(May 3rd, 1828.)

"The Commons last night agreed to the amendments made in the Dissenters' Bill in the House of Lords; and the bill is to receive the royal assent, it is said, on Tuesday. The amendments in the House of Lords that were carried were poor things—all that were good and necessary for the maintenance of Church and State were negatived. So that the bill is, in my poor judgment, as bad, as mischievous, and as revolutionary, as the most captious dissenter would wish it to be.

"John writes from Oxford that he has the honour to be a

Bachelor; and Lady Londonderry has obtained him a place at Almack's, which I anxiously hope may, neither too soon nor improvidently, convert him *out of* the character of bachelor; but I must read him a quiet cautionary lecture upon the arts of the world."

"April 19th, 1828.

"Amidst all our political difficulties and miseries, the generality of folks here direct their attention to nothing but meditations and controversies about the face, and figure, and voice of the new lady who is come over here to excite raptures and encores at the Opera-house, viz. Madame Sontag. Hardly any other subject is touched upon in conversation, and all the attention due to Church and State is withdrawn from both, and bestowed on this same Madame Sontag. Her face is somewhat too square for a beauty, and this sad circumstance distresses the body of fashionables extremely!"

(May 15th, 1828.)

"This is Ascension day. Sixty-two years ago, I left Newcastle school on this day and set out for Oxford. That was, as the Scotch say, 'Auld lang syne.' I am better in health now than I was then, notwithstanding all the toils and troubles I have gone through — praised be God!"

(May 17th, or 19th, 1828.)

"The Duchess of Gordon writes to me thus: —'I cannot 'say how much enchanted I was with Encombe; the view 'from the West Point, to the extremity of which Mr. Cal'craft conducted me in his tandem, is almost magnificent.'

"John, the dancer, is grown an amateur entirely of the employment, which it was but a little while ago that he spoke of with contempt, if not with disgust. He is a constant attendant at Almack's, and figures away in the dance always. He retains his entire want of the fashionable affectation of an inordinate love of music. The Sontags and the Pastas have no charms for him."

(May 1828.)

"The Wellesley children's case is going on in the House, where the first counsel upon the appeal has employed four days at about the rate of six hours a day, to prove the decision wrong. I take no part in the matter, the appeal being from myself, and I think it more decorous to leave it entirely to others, who may do what they think best. I can't alter my opinion. The lawyers who attend this rehearing as judges, are Lords Manners, Redesdale, and Lyndhurst.

"I have letters from all parts, day by day, of thanks for the stand I made against the Dissenters' Bill, and of lamentation about the event, and of severe remarks, more so than one would wish, against the Bench. It was curious to hear some of the Bishops professing that they supported the bill because the petitions spoke the sense of the people. Now the petitions of the Dissenters certainly were very numerous. I believe I may say *thousands.* The petitions on the other side were not *twenty* — the friends of the Establishment were all asleep: but what was it that the petitions, which are to be considered as speaking the sense of the people, proceeded upon? Nothing less than that there should be no *establishment* of religion at all, but that all sects should take their chance; and those of the Bench who supported the bill, could not possibly have *read* the petitions, which they said contained the sense of the people, and could only have seen the outsides of them.

"The Duchess of Kent, who is remarkably civil, has sent me an invitation to dine at Kensington Palace on the 28th, which I can't accept, because it is Pitt's birth-day."

On the 28th, Lord Eldon accordingly attended the anniversary meeting for the sake of which he had declined the royal invitation, and was accompanied thither, for the first time, by Lord Encombe. After dinner, he stated the reasons for which he considered it his duty to attend those commemorations of Mr. Pitt as long as life and strength were continued to him.

"In the first place," he said, "personal gratitude to the great man, whose memory and principles the Club was intended to commemorate, had influenced his mind. In the next place, judging not as a mere individual, but as a member of that great society in which they were all enrolled, he felt it to be his duty to endeavour to maintain the principles from the operation of which the country had derived such essential benefits. But a still more important reason had determined him in forming the resolution he had adopted. He regarded meetings of that sort — meetings which paid an honourable homage to patriotic exertions and superior virtue — as calculated to work a great public good. They were not only a just tribute to pre-eminent services, but they roused the emulation of young men (who perhaps but for them would have remained in ignorance upon the subject) when they witnessed such noble and generous scenes as some had witnessed that day perhaps for the first time. He would ask, was it possible for any one, possessed of generous feelings, to be present on such an occasion, to see the fervent manner in which the remembrance of the services, and the genius, and the lofty virtues of the illustrious deceased were held, and not be better from witnessing such a scene? If called upon to discharge a public duty, would he not proceed to it with increased vigour, and a determination to emulate, in as far as possible, the conduct of that great man, whose name would descend from generation to generation, he most sincerely hoped, as long as England should exist?"

In the course of this month, some differences had arisen among the Ministers about the disposal of the franchise forfeited by the borough of East Retford. This led to the retirement of Mr. Huskisson, Lord Palmerston, Lord Dudley, Mr. Grant, and Mr. W. Lamb, afterwards Lord Melbourne, who were respectively succeeded by Sir George Murray, Sir Henry Hardinge, Lord Aberdeen, Mr. Vesey Fitzgerald, and Lord Francis Egerton.

Lord Eldon to Lady F. J. Bankes. — (Extract.)

(May 29th or 30th, 1828.)

"The Minister will have great difficulties to struggle with. The Whigs, the Canningites, and the Huskissonites, will join and be very strong. With the exception of Lord Lonsdale, the great Tory parliamentary Lords are not propitiated by the new arrangements, and many of them will either be neuter or adverse."

A resolution in favour of the Roman Catholic claims was proposed to the House of Lords by the Marquis of Lansdowne, on the 9th of June. The debate was adjourned to the 10th: and Lord Plunkett having then spoken in support of the motion,

Lord Eldon rose. He said that when, some years since, it was proposed in that House to enter upon the general consideration of the question, in consequence of a petition from the Roman Catholics, on a motion not very much unlike what was now proposed, the House thought proper to negative the proposition, on this ground expressly—that it would have the effect, perhaps, of unnecessarily alarming the Protestant part of the community, and perhaps also of raising the expectations, without its being in the power of Parliament to gratify the wishes, of the Roman Catholics. He objected to enter into the consideration of any proposition so general in its terms as the present. He was reluctant to fatigue their Lordships with going over the historical detail of the acts that had been passed for the exclusion of the Roman Catholics. He had been represented somewhere or other as if he was an Almanack-maker, because he followed this course. But no less a man than Lord Bacon, when he was addressing his Sovereign, with respect to a Spanish, or some other war, had concluded his observations by saying, that he was afraid he should be taken for an Almanack-maker. As it was necessary, for the due information of the House, that he should re-state those facts, he would hazard the risk of being again taken for an Almanack-maker, when he had Lord Bacon to share the honour with him. He should now proceed to observe upon the manner in which the disabilities had been imposed, and the circumstances which gave rise to them. In the reign of Henry VIII. a great many acts were passed to deprive the see of Rome of any jurisdiction in these realms. In the reign of his daughter, Queen Mary, a great many acts had also been passed on the same subject, but with a different purpose, for their object was to give the Pope of Pome a temporal jurisdiction in many important matters in this country. On the accession of Queen Elizabeth, a different spirit prevailed; and by one act of the earliest part of her reign, twenty-one of the Statutes last alluded to were repealed, the object of which repeal was stated expressly to be, to relieve her Majesty's subjects from the cruel bondage in which they had been placed by the acts passed in the reign of Philip and Mary. Their Lordships might, when they went home, have the curiosity to look into these acts, and they would find, that, in many instances, the see of Rome was allowed by them to exercise a direct authority in spiritual matters, and in matters of a mixed spiritual and temporal nature, or, as it was then called, *in ordine ad spirituale.* More degrading and humiliating legislative measures had never been recorded in the annals of any kingdom. It was afterwards enacted, that no member should be admitted to take his seat in the House of Commons until he had taken the Oaths, not only of Allegiance, but of Supremacy also. Lawyers, such as himself, whether they were considered, as a Right Rev. Prelate had called them, "book-read blockheads," or as blockheads without book-reading, were apt to take their information from such books as they were compelled to read. In one of those books, a work of Lord Hale's, there was something on this point which was singularly illustrated and corroborated by what Dr. Doyle had said in his evidence before their Lordships. When asked if, by virtue of his oath, he should feel himself obliged to disclose to his Sovereign any treasons committed, or about to be committed, which had been revealed to him in confession, he said, "No: it was true that the words of his oath required him to do so, but every body knew that the Roman Catholic clergy did not think it their duty to disclose what was revealed to them in confession." So that he proved beyond question, that the words of the oath did not hurt him, but only helped to shew how much of what he swore to he was bound by. Lord Hale's observations were on the same subject. He said, the Pope of Rome, in order to increase his power in this kingdom, took a subtle distinction between what was spiritual and what was temporal *in ordine ad spirituale*, and he added, that the Oath of Supremacy was framed in order to meet this difficulty. As this, however, was found insufficient, the Declaration against Transubstantiation was resorted to, because, until the character of an individual could be got at, it was impossible to know by how much of the oath he swore to he was bound. In the course of this debate, a Noble Lord had alluded to the necessary rejection of the Duke of Norfolk on account of his faith, should he present himself to that House to assume the right of his ancestors. With respect to himself individually, he could only say, that a more painful duty than that suggested could not by possibility have been imposed on him, while he had the honour of a seat upon the woolsack. But, if the Sovereign himself should appear there without having previously taken the Oaths and the Declaration against Transubstantiation as required by law, he should be constrained to inform him, that he was *ipso facto* incapacitated from discharging the constitutional functions of king. Touching the Coronation Oath, he would say, if in this Protestant state and kingdom—for such the acts of parliament warranted him in calling it—his Majesty should think that, consistently with his duty, he could not give his consent to bills for the relief of the Roman Catholics, he would be under as solemn an obligation as any man could ever be placed under to refuse that consent, although those bills should have passed both Houses. It was worthy of notice, that the act which set forth the unconstitutional attempts of James II., previous to his abdication, did not merely declare that he had sought to subvert the laws and constitution of this country, but that he had endeavoured to subvert the Protestant religion, and the Protestant government of the state. When the Act of Settlement was passed, it was required that the King should be in the communion of the Church of England, and not be united in marriage to a member of the Roman Catholic religion. They had, therefore, a King upon the throne who was obliged to be in communion with the Church, to make the declaration against Transubstantiation, and to fulfil all those other duties which the Parliament thought fit to impose. From that time to the present day, the constitution in all its branches, had been essentially Protestant. The act of Union with Scotland was founded on the same principle, and the Scotch act on this subject actually went the length of declaring, that Roman Catholics should neither be electors nor elected, in the representation of the kingdom. They had, therefore, the Act of Settlement, the Bill of Rights, and all subsequent acts, the fundamental laws of the kingdom, which declared it impossible that Catholics should be admitted to power. In the course of the debate, a great deal had been said about securities; but they should recollect, that the proposition they had now to discuss did not, in the remotest degree, allude to that important topic. Their Lordships undoubtedly had authority to guard the Church in the same manner as it was at present guarded; it was competent to them to secure it with still stronger protection; but they had no authority to plunge the country into a state, into which it had never before been plunged, and in which neither Protestant nor Catholic could know what could be done. That difficulty — the absence of all definite proposals of security — would alone justify him in refusing his consent to the present motion. — There was one other point to which he was desirous to advert; he alluded to the language and sentiments promulgated by the Catholic Association. He should pass totally over the indiscriminate virulence of their invectives, as great allowance was to be made for the feelings of persons continually speaking on such popular and inflammatory topics. What he wished particularly to notice on this occasion was, a recent proscription, by their chief orator, of twenty-eight county and borough members. From the tone of confidence in which the speaker calculated on removing those obnoxious representatives, it appeared that the Roman Catholics had already sufficient elective power in their hands, and ought not to require that it should be increased. The Noble and Learned Earl concluded by conjuring their Lordships, by what they owed to their King, their country, and to the Protestant Church, to refuse their assent to this resolution.

Lord Eldon to Lady F. J. Bankes. — (Extracts.)

(June 30th, 1828.)

"The multitude are flowing fast out of town, and they would be flowing faster if Queen Elizabeth's Fête was not to take place to-night in Park Lane, at Lady Londonderry's, junior's. You would see in your newspaper the names of the performers, and the several parts they are to act.* Queen Elizabeth's dress, without her diamonds, is said to cost 2000*l.* She is not to cut off Queen Mary of Scots's head: but her Majesty Elizabeth has sent her commands to her Majesty Mary to leave all her proposed maids of honour at home, because she has not room to receive them. It is much doubted among the fashionables whether the modern Mary bears this command of the rival Queen, as the former Mary did the order to have her head chopped off, with reasonable equanimity.

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"Somebody is to be Earl of Essex; whether Queen Elizabeth, like the former Queen of that name, will sign a warrant for cutting off his head, I have not learnt, but it is said that the individual, who is to represent Essex, has not much of an head! I declined my invitation.

"His Majesty, on Saturday, gave a good dinner, in his Palace here, to 'The Jockey Club,' which venerable society comprehends some individuals, who are scarcely fit visitors at a royal mansion in a King's Palace. These things are topsy-turvy doings."

"July 2nd, 1828.

"You'll see in the papers all the particulars of the Congress between Queen Elizabeth and Queen Mary—so I need say no more as to that, save to observe, that, to keep Mary in good humour, her maids of honour were finally allowed to enter the presence of Queen Bess. I hear the appearance of all was very splendid—the characters but so so performed.

(July 3rd, 1828.)

"I should have sent you a better scrap to-day, if two causes had not prevented it: the one, the most excessive heat of the day, which makes one quite idle; the other (who could believe it?) that, having last night received a message from the Sovereign, intimating that I should, as a friend, call upon him, I have had a conversazione with him of some length this morning. It had, however, no matter in it, but civil speeches and professions of friendship and regard; but no word to account for what I don't think very consistent with such speeches and professions. So much for that, which I mention, because it is not unlikely that the papers may make mention of my visit, with many conjectures and guesses what it could be about."

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* Queen Elizabeth was represented by Lady Londonderry, and Queen Mary by Lady Ellenborough.

"July 9th, 1828.

"I am again shut up in the House of Lords, amidst the noise and brawl of counsel.

"Nothing is talked of now, which interests any body the least in the world, except the election of Mr. O'Connell*, and the mischief that it will produce among debaters in the House of Commons, and the more serious mischief which it will, in all human probability, excite in Ireland. As O'Connell will not, though elected, be allowed to take his seat in the House of Commons, unless he will take the oaths, &c., (and that he won't do, unless he can get absolution,) his rejection from the Commons may excite rebellion in Ireland. At all events, this business must bring the Roman Catholic question, which has been so often discussed, to a crisis and a conclusion. The nature of that conclusion I don't think likely to be favourable to Protestantism. The Dissenters, who got the Test and Corporation Acts lately *in effect* repealed, have subscribed, as appears in an Irish publication, handsomely, — to support O'Connell's election as likely to give the Roman Catholics the same benefits as the Dissenters have received by the late act here: and the Roman Catholics in Ireland publicly avow their determination to overset the Established Church. We shall see whether our present rulers have the courage with which a Mr. Pitt would have acted under present circumstances. I don't expect it of them.

"July 14th, 1828.

"The world affords little of novelty. The great Irish agitator, O'Connell, it is understood, is not to make his appearance this Session, it being manifest that he can do more mischief by prolonging his existence as a pretended M.P., than he could do, if he was now to appear and be turned out of the House of Commons: and indeed, if he was now so to be turned out, unless Parliament passed at the same time an act to oblige candidates *at elections* to take oaths and make the declaration against transubstantiation, which they are now obliged to take *when they take their seats in the House*, the only consequence would be, that the same force and scene of riot and confusion would be acted over again during the recess of Parliament."

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* For the county of Clare.

"Saturday, (probably July 19th, 1828.)

"O'Connell's proceedings in Ireland, which you'll see in the papers, and the supposed or real ambiguity which marked the D. of W.'s speech, have led to a very general persuasion, that Ministry intend, or at least that the Duke intends, next Session, to emancipate the Roman Catholics, as he has the Dissenters; and the world is uneasy."

(End of July or beginning of August, 1828.)

"Give my respects to your Bishop, if he will be pleased to accept them, from one somewhat less friendly than he is to the Pope. Diversity of sentiment, honestly entertained on both sides, does not weaken mutual regard and good will, where there is real worth in the character, the whole of the man being taken together.

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"The King gives a grand dinner on the 12th at Windsor Castle. He has not, as one of his guests, invited a person of whom I can be bold enough to say, that the K. is more indebted to him, than he is to any other subject he ever had in a civil department, adding, by way of shewing a little modesty, the old expression, 'though I say it who should not say it.'"

The autumn was passed by Lord Eldon and his family as usual, at Encombe, whence, about the beginning of September, he wrote to his grandson, inviting him thither, and adding,—

"We are living in seclusion, and mamma's state renders that matter of necessity."

Lord Eldon to Lord Stowell. — (Extract.)

(Probably beginning of Sept. 1828.)

"I should be glad to comply with your request as to sending political news; but, as the time is past in which any person corresponds with me upon political subjects, I have neither any such news, nor any person to whom I can apply for such. The newspapers tell me that Ellenborough goes to the India Board, Melville removing to the Admiralty, and it is intimated that Westmoreland will succeed Ellenborough. I rather take Westmoreland to have relaxed as to the Catholic question somewhat, but I don't know that to be the fact. If this appointment of Westmoreland takes place, Lord Eldon seems to be the only person, in our Cabinet formerly working with the present Minister, totally set aside. These things naturally make London very disagreeable and irksome to me. You mention a person you have seen at Worthing very shy as to talking politics. That forms a sample of the uncomfortably cold treatment one meets with from persons, all over attachment and love, as it were, some little time ago. I love grumbling here in solitude, when my own mind happens to turn to the contemplation of these things — at least I prefer it to having that grumbling called forth in every street where one meets an old political brother workman.

"I look on the Roman Catholic question as, bit by bit, here a little and there a little, to be ultimately, and at no distant day, carried. I have no conception that even Oxford will struggle effectually against the great church interests which will patronise that question, and those who support it in Parliament."

Lord Redesdale to Lord Eldon.

"Batsford Park, Sept. 6th, 1828.

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"Catholics and Protestants are now openly preparing for personal contest. If the former should gain the victory, it seems to me absurd to suppose that they will be content without obtaining the church establishment. In those foreign countries where Catholics and Protestants are *said* to live together in unity, the Catholics have their church establishment. Such is the case in the Russian and Prussian dominions in Poland, Silesia, &c. But the Government is supreme over all; they have no Catholic members of Parliament. Catherine of Russia and Frederick of Prussia gave the law to all, and suffered no interference of the Court of Rome but under the sanction of their authority. In this country the limit to the power of the Crown does not admit of the same control. It is impossible to put the Catholics and Protestants of Great Britain and Ireland on the same footing with Catholics, Protestants, and Greeks in Russian or Prussian Poland, or in Silesia and other countries where both religions have, in separate districts, distinct establishments. There is no resemblance between the state of religion in Great Britain and Ireland, and the state of religion in the Russian or Prussian or Austrian dominions; or in the Netherlands, or now in France. The example of those countries is, therefore, no example to us.

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"In Ireland the Catholic clergy are independent of the laity of their own Church, to a degree which never existed in any country except perhaps the Pope's temporal dominions; and I believe that even there the clergy are not so wholly independent of the laity, as the Catholic clergy of Ireland are independent of the Catholic laity. And even in the patrimony of St. Peter, the clergy are dependent on the *Government* of the country, though that Government is in the hands of ecclesiastics. The Court of Rome is jealous of its temporal power over its immediate subjects, and distinguishes its temporal from its spiritual power, and is not disposed to allow its priests, as such, to interfere with its temporal authority."

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Lord Eldon to Lady F. J. Bankes. — (Extract.)

"Monday, (Sept. 22nd, 1828.)

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"Farmer Eldon has sent some sheep to Woodbury Hill. The farmer hopes they may be fancied and bought, as we agriculturists are in but a piteous condition as such. Our wool is a perfect drug — an unsaleable commodity."

Lord Eldon to Lady F. J. Bankes. — (Extract.)

(End of Sept. 1828.)

"Have you seen the Duke of Newcastle's letter to Lord Kenyon in the 'Morning Post?' It is well worth reading. He must expect that, whilst many people will admire his spirit and think his observations very just, multitudes of Radicals and Liberals will abuse him unsparingly; whilst the friends and foes of Ministers will praise him and blame him with all zeal and earnestness. He is a fellow, at all events, of good spirit, and no flincher — he speaks out most boldly. Whatever one party may think of him as a politician, no party can refuse to him the character of a most excellent and virtuous man in private life. If, in these times, it is a fault to be much attached to the Established Church, as some seem to think, he is certainly as much attached as any body living to it. Whether he will persuade his countrymen to rally round that Church, as he desires to persuade them, is another matter. I, who think that the State is as much aimed at by the enemies of the Church, as the Church itself, am afraid that his countrymen have been so long fast asleep, that it will be no easy matter to awaken them."

The following extracts are from a letter of Lord Eldon to Lord Howe, in answer to a request of the latter for some advice from Lord Eldon respecting the expediency of forming Brunswick Clubs:

Lord Eldon to Lord Howe. — (Extracts.)

"My dear Lord, (Probably Oct. 1828.)

"Your Lordship's letter, which I received yesterday, asks my opinion upon a subject, under present circumstances, of very great difficulty. But if the difficulty was tenfold greater than it is, I shall feel it to be *duty* to *you* from *me* to attempt to state that opinion.

"Whilst I was in town, it was proposed that the friends of the Protestant interest, who voted against the Roman

Catholics, should, in some manner, be more in a state of union and connection than they had hitherto been, and that they should form a club in town, occasionally dining with each other. It was proposed that this club should be denominated the Protestant Club; to which I objected, after expressing my perfect willingness to be one of those who should occasionally dine together, not adopting that name of distinction, the prudence and propriety of which I doubted. I doubted the prudence, because it appeared to me that it might provoke others to the institution of counter institutions, which, in the number of members, might be such as to found an argument that majorities were in favour of the Catholics:—I doubted the propriety of it, because, without great deliberation antecedently exercised upon the subject, and fixing the principles upon which the body should act, and so fixing them that there should be no danger of adopting measures which those principles would not sanction, there could not but be danger that measures might be adopted, which it might not be very easy to prove to be perfectly constitutional,—as completely clear of objections as might be wished."

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"Already very inconvenient questions seem to have been stated, whether the calls upon the people of the country have not, some of them, been expressed in such terms, as make it questionable whether those, who, in such terms, make such calls, act as legally as they ought. It is true, those who may so complain may most justly be told that they have not so objected to the shamefully illegal proceedings of the Roman Catholic Association: and I think it not impossible that we may hear some, abusing in Parliament the proceedings of Protestant Associations, who have mainly encouraged the proceedings of the Roman Catholic Association;—but this is an example not to be followed."

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"I think an association of persons, formed for the purpose of representing to their fellow-subjects the necessity, under present circumstances, of their informing Parliament, in due and respectful language, of their feelings regarding the

Catholic claims, — and of not continuing to leave Parliament uninformed, or under mistake as to their feelings upon that important subject, — may be very justifiable, provided such representation is made in the terms in which Parliament ought to be mentioned, — of course, respectful terms.

"If your Club, proposed *Brunswick* Club, is an association going beyond this, I am afraid, my dear Lord, I cannot give you any advice upon the subject, without very precise and particular information how it is to be formed, and what are the objects and purposes of it, and how those objects and purposes precisely are to be sought to be obtained.

"I write this most hastily — if anything further occurs to me, I will write again — or, if I hear farther from you, I will immediately answer your letter.

"I am, very dear Lord,
"Yours most faithfully,
"ELDON."

Lord Eldon to Lord Stowell. — (Extract.)

(Postmark, November 28th, 1828.)

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"If, as the Liberals say, religious opinions ought to have *no* influence on the exercise of political power, why should the Sovereign's professing the Roman Catholic religion, or marrying a Roman Catholic Princess, be, as by law it is, a forfeiture of the Crown? If this be a just principle, how can opposition to restoring to the Roman Catholics that establishment which formerly belonged to them and their priesthood be justified? If, on the other hand, you say that religious opinions *ought* to have such influence where the religious opinions may lead persons to do what is wrong, (still,) if making both Houses of Parliament replete with Roman Catholics (nothing religious opinions withstanding) would not lead *them* to do wrong, why is it to be *taken for granted* that *a King*, being of the same religious persuasion as his Parliament, will do wrong? The project of emancipation seems to me to be founded on assumptions, which, if just, render much which was done in 1688, and the Act of Settlement on the Princess Sophia and the heirs of her body *being Protestants*, — the forfeiture of the Crown by conversion or marriage,—altogether unjust; and that, if the Ministers of the Crown advise his Majesty to consent to emancipation as it is asked, they advise him to give his assent to a libel on his title to the throne. But, notwithstanding all this, I cannot forbear to think that the strong language used in many of the clubs is most mischievous, and deters many from meeting to express in sober and temperate petitions their feelings. My language in town, to those who talked to me, was to do nothing more than, as individuals, in different parts of the country, to endeavour to convince their neighbours that it was dangerous to leave Parliament, by not respectfully petitioning, to act upon what was there so often and so confidently said, that the country did not care what became of the question."

CHAPTER LII.

1829.

RECOMMENDATION OF CATHOLIC RELIEF IN THE KING'S SPEECH: OPPOSITION OF LORD ELDON IN THE HOUSE OF LORDS: PETITIONS. — MR. PEEL'S RESIGNATION OF HIS SEAT FOR OXFORD: LORD ENCOMBE SUGGESTED AS HIS SUCCESSOR: HIS CORRESPONDENCE ON THAT SUBJECT WITH LORD ELDON: PROPOSAL WITHDRAWN IN FAVOUR OF SIR R. H. INGLIS: ELECTION OF LORD ENCOMBE FOR TRURO. — LETTER OF LORD ELDON TO LADY F. J. BANKES. — PETITIONS RESPECTING THE CATHOLIC CLAIMS: SECOND READING OF RELIEF BILL: COMMITTEE: THIRD READING: PROTEST. — LORD ELDON'S MEMORANDUM OF TWO CONVERSATIONS WITH GEORGE IV. RESPECTING THE ROYAL ASSENT TO THE RELIEF BILL. — LETTERS OF LORD ELDON TO LADY F. J. BANKES. — BUSINESS OF EQUITY COURTS: BILL TO CONSTITUTE NEW JUDGE. — ELDON LAW SCHOLARSHIPS: VAUXHALL SCHOOL. — CHANGES IN CABINET: LETTER OF LORD ELDON TO LADY F. J. BANKES. — LETTER FORGED IN LORD ELDON'S NAME: LETTERS OF LORD ELDON TO LORD ENCOMBE, TO LORD STOWELL, AND LADY F. J. BANKES. — ILLNESS OF LADY ELDON. — ILLUSTRATIONS OF SAYERS'S CARICATURES. — CLOSE OF LORD ELDON'S FIELD SPORTS. — DIVERSION OF A ROAD: LETTER OF LORD ELDON TO LADY F. J. BANKES. — TESTIMONIES OF RESPECT FROM CLERGY AND OTHERS.

LORD ELDON had not been deceived in his anticipations of a change in the laws affecting the Roman Catholics. Two or three days before the meeting of Parliament, which was fixed for the 5th of February 1829, a whisper was heard in the interior circles of political society, that the concession of the Roman Catholic claims had been resolved upon by the Government. And upon the 4th of February the King's

Speech, which, as is usual on the day preceding the commencement of the Session, was read by the Ministerial leader of each branch of the Legislature to a party of the immediate parliamentary connexions of the Government assembled at his own house, was found to contain a paragraph recommeding it to Parliament "to review the laws which impose civil "disabilities on his Majesty's Roman Catholic sub-"jects."

On the following night, when the Address in answer to his Majesty's Speech was debated in the House of Lords, the Earl of Eldon was at his post. He spoke early, and declared his resolution of opposing to the utmost the removal of the Roman Catholic disabilities:

> If he had a voice that would sound to the remotest corner of the empire, he would re-echo the principle, which he most firmly believed, — that if ever a Roman Catholic was permitted to form part of the legislature of this country, or to hold any of the great executive offices of the Government, from that moment the sun of Great Britain would be set. [*A laugh.*] His opinions might be received with laughter and contempt: opprobrium might be heaped upon their author: he nevertheless was prepared to contend that they were correct, but trusted they would never be realised. A Noble Lord (Lord Holland), than whom no man had ever argued the Roman Catholic question with greater fairness or moderation, had said upon one occasion, that "toleration was a word which he one day hoped to find forming no part of the English language." He would say of his Noble Friend, that no individual could be found that had paid greater or more careful attention to the subject of Catholic disqualification. That Noble Lord had expressed the wish already alluded to, and had advocated his side of the question on the ground that "religious opinions had nothing to do with politics." Now, if that were true — if that principle were

correct — the King had no right to be upon the throne of these realms. The fact was, that his Majesty sat upon that throne by virtue and in consequence of peculiar religious opinions. The present line had been called thither expressly for the purpose of guarding the Protestant establishment of this country. No man had any abstract right to political office; his eligibility must depend upon the public voice, and embraced various questions of fitness, expediency, or otherwise. He granted, and he did so readily, that no man ought to be incapacitated from serving the State, except on grounds of state policy — strong, cogent, and paramount reasons of state — unless, in fact, his enjoyment of office were considered as likely to prove injurious to the general interest. But this, he contended, was precisely the situation of the Roman Catholics; and he challenged his opponents to prove the converse of the proposition. Had he not felt this question to be a question of vital importance to the State generally — to his Sovereign — to his fellow-subjects — and to religion too — which, in his opinion, had been too much neglected during the last Session, and precisely by those persons who ought to have taken more care of it [*hear!*] — if he had not felt this to be the case, he should not have taken the active part he had hitherto done, and was still prepared to do, with regard to this subject. As matters then stood, and influenced by his present feelings and conviction, no consideration on this side of the grave could induce him to give his consent to the introduction of a single Roman Catholic into either House of Parliament or to any political office whatsoever. What had the Roman Catholic Association done? What were they doing daily? They were taxing the King's subjects, and assuming the powers of Parliament; they governed the country more absolutely than the Sovereign or the laws; nay, they governed the Government itself. If, instead of putting down the Association, the Imperial Legislature proceeded to strengthen its hands by granting the Catholics additional privileges, it would be neither more nor less than a surrender of the throne and the Constitution into the hands of those persons. When he heard the Catholic leaders talk of universal suffrage — when he saw the Association acting the part of Government, and screwing from the pockets of the wretched inhabitants of Ireland their miserable pittances, as contributions to the Catholic rent — when he observed them obtaining the assistance of France and America — he could not but feel that such an Association ought to be put down. But this could only be done by making the leaders of the Association answerable to the common law for their acts. There was no use in dissolving the Association, except it were prevented from ever again rising into existence. The members of it had threatened to take the field if the 40*s.* freeholds were put an end to. They told us that they would look to America, and set up their Constitution for ours. While seeking admission to the Constitution they endeavoured to destroy it. In fact their object was far beyond emancipation. Parliament should see that there was a mighty difference between granting a share in the benefits of the Constitution, and allowing its destruction.

On the 9th and on the 19th of February he presented great numbers of petitions, and on both these occasions, as well as on other discussions preliminary to the debates upon the Relief Bill, he supported his opinions with his usual earnestness. The total number of petitions entrusted to him against this measure, in the course of its progress, is said to have exceeded 900.

Mr. Peel, having felt himself constrained by public duty to take a course contravening the opinions which, at the time of his election to represent the University of Oxford in Parliament, were understood to be held by him in common with its electors, considered it a point of honour, in this altered state of circumstances, to surrender his trust into the hands of his constituents. A large body of them were anxious for his re-election; but a still more numerous party were resolved upon an Anti-Catholic representative. Many of these last were turning their thoughts upon Lord Encombe, whose rank and personal character recommended him on general grounds, while his descent from the Earl of Eldon was an especial pledge for his resistance to the Roman Catholic claims: and three Heads of Colleges expressed to the Anti-Catholic committee their readiness to support him if he should be proposed. Lord Encombe was just then at Oxford, in residence for the purpose of taking his degree of Master of Arts, and had no conception that he could in any way be personally affected by Sir Robert Peel's resignation, until he was informed by Mr. Risley, a member of Convocation, that he had been spoken of as a candidate against the leader of the House of Commons. The intelligence was followed by a suggestion that, as it is against the etiquette of the University for one who aims at the honour of representing it to be in Oxford during the canvassing and polling, it would be expedient that Lord Encombe should go away. This advice he took by making a visit of some days at Mr. Risley's own residence a few miles distant. During this absence however it was considered by his well-wishers, in reference to his youth and want of political experience (for he had not yet been in Parliament), and in regard also to the state of the interests in the great College of Christ Church, that his claims should not be pressed.

Some days elapsed before Lord Eldon was apprised of any intention in favour of his grandson; and he at once felt all the difficulty of the young candidate's position.

Lord Eldon to Lord Encombe. — (Extract.)

"Dear John, (Feb. 17th, 1829.)

"It's a long time since I heard from you. I hope you are well. Oxford must afford a great deal of news after all that has been passing, and I should be glad to hear of it: if by return of post, so much the better.

"I am told here that some well-wishers had written to Oxford to think of you on the vacancy. This was entirely without my knowledge; for though my warmest affections and best wishes will ever attend you, I should not have thought that such a proposition, at your standing and time of life, would do in opposition to Mr. Peel (if anything would do in opposition to him), and it is very essential that the attempt to change their member at Oxford should not fail. But infinite exertions of great men will me made for that purpose.

"I presume your opinions and sentiments are Anti-Catholic; indeed, I think I am sure of it; but I have this question so often put to me that whether this is so or not, speaking according to the real dictates of your own heart, pray tell me, in a line from you as immediately as you can. Why I am so often asked it I can't say. I dare say you agree with me that if anybody asks it with a view to Parliament, a person should go there unshackled and unpledged as to his general future conduct; but as to conduct upon this *depending measure*, no man will be sent there by anybody who does not speak out plainly what he would do as to this depending measure. The curiosity to which I allude may have no distinct object respecting you, but if I should be mistaken in this, and even though it is not probable that I am mistaken, I don't think it right to give any answer upon it without your authority."

By the time when Lord Encombe received this letter, it had been finally resolved to put Sir Robert Inglis in nomination; and Lord Encombe gave an immediate answer to Lord Eldon as follows: —

Lord Encombe to Lord Eldon. —(Extract.)

"My dear Grandfather, "Wednesday, Feb. 18th, 1829.

"I lose no time in answering your letter, received this morning; and I have good reason to hope that you will not be dissatisfied with the causes of my not having written so recently as you have expected. On the Friday before last*, I sent you a letter to announce all I could about Mr. Peel's resignation, and though I preferred in that letter to omit expressly alluding to the probability of my being named to succeed him, (thinking that possibly you might wish to show my letter to any one respecting the facts mentioned in it,) I was daily hoping and expecting to receive from you instructions what my conduct ought to be in case of this being proposed to me. Not, however, receiving any intelligence from you, I at last began to think that you wished me to act on my own judgment and to let me try my chance, without involving your name or character in a defeat, which might possibly ensue, but which could not hurt my character, youth and inexperience being the only objections to me. Under the impression therefore that you wished to drop all further communication with me for the time, I abstained from writing to you; and being asked by a friend of mine if I would authorise him to state, that I had no objection to stand the contest should my name be proposed, I gave him that authority on my own determination, and without involving you or any one else. With regard, finally, to my opinion on the Catholic question, it is almost needless, after what I have stated above, to add, that, having professed myself ready to take the field even against Mr. Peel, I am as much pledged by that act to oppose the measures in favour of the Catholics, as if I had at this moment been sitting in Parliament as the member for the University in the place of Mr. Peel. I will now merely add that I intend to be in town on Monday next, February 23rd, having been for the last few days at Mr. Risley's, at Souldern.

"It is still doubtful whether Mr. Peel or Sir R. Inglis (now the avowed Opposition candidate) will succeed. At the Opposition committee his name and mine were the only two discussed."

The contest terminated in favour of Sir Robert Inglis, the present member.

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* Feb. 6th.

Lord Eldon to Lord Encombe.—(Extract.)

"My dear John, (Feb. 19th, 1829.)

"I don't know whether I may be able to write to you again to-day: to-morrow I certainly will write.

"I grieve that things have been so unluckily managed about Oxford. I quite approve of your consenting to be nominated; I think you did quite right. But I am very anxious to stand acquitted of any inattention to you. If I had heard from any person that there was a probability of your being thought of, I should have used all possible means of forwarding your success; but no one person in the world ever mentioned it to me, though, since the idea was dismissed, I have been informed, that people here thought of it, and now think that you might have succeeded, and that Sir R. H. I. will not. My earnest intreaty is, that you will not suppose that my silence was owing to anything but absolute ignorance that the matter was at all thought of by anybody. I now hear that Lord Stowell had written to some person at Oxford about it; but this he did without informing me of his intention."

Lord Eldon to Lord Encombe.—(Extract.)

"My dear John, (Franked Feb. 20th, 1829.)

"I hope my letter of yesterday would relieve you from any tendency to a feeling that I had been wanting in attention to you about Oxford. It is impossible that I could knowingly be so. I cannot blame myself, and I have only, as to you, to say that I thoroughly approve your conduct.

"Your statement and conduct fully justify the conviction, that, if you were now in Parliament, you would oppose in the House of Commons the present Catholic measures. They will commence again there, after Mr. Peel, for some place, Oxford or some other, is returned to Parliament.

"A seat was mentioned to me, with a question whether, if you came into Parliament, you would immediately begin a vigorous and active *attack* and *leading conduct* as to the Catholic business. I thought that though you would be very zealous upon that and other points, it required not only abilities, but great experience, to manage such attack and conduct — that it would be dangerous to attempt it — that failure at first in Parliament is generally the effect of not waiting to learn by the experience which observation, carefully thrown upon what passes there, furnishes: and nine persons out of ten, indeed a greater proportion, fail by such early attempts, and after failure never recover. I was clear therefore that this could not do."

But the grandson of Lord Eldon was not long without a seat. The two members for Truro, Lord Fitzroy Somerset and Mr. Tomline, having vacated, an arrangement was made through Lord Falmouth, who had a leading interest in that borough, that Lord Encombe should be one of its representatives. He was accordingly returned for it on the 6th of March, and continued to represent it in that and the two succeeding Parliaments: after which, in consequence of the passing of the Reform Act, he withdrew from the House of Commons.

Lord Eldon to Lady F. J. Bankes. — (Extract.)

(1829.)

" The newspapers seem all employed in endeavouring to rouse the country to petition against the Roman Catholic relief measures, and the language those papers address to the public on this matter seems proof enough that the country cares very little about the matter. We fear there is a falling off in the Lords, which will reduce the former majority. Some say, after what you have done for the dissenters, the republicans, we won't vote against the Roman Catholics, who are, at least, friends to monarchy: other Lords say, we can't continue for ever in a contest of the kind we have been so long engaged in; and though some folks tell us that there is a great Anti-Catholic feeling in the people, we perceive no signs of it; and it looks as if, ere long, the great body, who belong to the Established Church, will wake some morning from their sleep, and hearing the news that the Roman

Catholics have succeeded, will dispose of the matter with 'Oh dear, who could have thought it!'"

The Birmingham petition against the Roman Catholic claims was presented on the 10th of March by Lord Eldon; and on the 13th he moved for an account of the Roman Catholics who, from the year 1815, had taken the oath and declaration in England under the act of 1791, or in Scotland under the act of 1793; but, at the suggestion of the Duke of Wellington, he withdrew this motion. In the course of the debate, the Chancellor attacked Lord Eldon with some severity; and the latter was so much displeased, that, after having addressed himself to some observations of Lord Plunkett, he finished by saying,

> "I will not answer what has fallen from the Noble and "Learned Lord on the Woolsack. If he says that my honest "opinions were uttered with an insidious design, my character, "known to my country for more than fifty years, is, I feel, "more than sufficient to repel so unfounded an insinuation."

On the 19th of March, when Lord Eldon presented some petitions from Newcastle,

> 'Lord Grey threw out some animadversions upon the character of the Anti-Catholic petitions in general, and upon the junction which appeared to have been formed between the Wesleyan Methodists and the Church of England.
>
> Lord Eldon defended the clergy of Newcastle for the part which they had taken in these petitions. Having now presented six hundred, not one of which, with the exception of one which he had presented the other evening for a Noble Lord, he had omitted to look at, he might venture to say that there were many names attached to those petitions, of individuals who would do honour to either House of Parliament. As to the junction of the Church of England with the Wesleyan Methodists, when those by whom Parliament was addressed were Protestants, he should like any one to

tell him why the Wesleyan Methodists were not Protestants, and had not a right to join in such addresses? For his own part, having had multitudes of provincial papers transmitted to him, containing reports of the debates which had taken place at numerous meetings in the country for the purpose of petitioning Parliament against farther concession to the Catholics, he had been astonished to observe the ability and knowledge manifested by the ministers of the Wesleyan Methodists who had taken part in those debates. The petitions were not presented to their Lordships as the petitions of members of the Church of England; they were presented as the petitions of Protestants, protesting against the introduction of measures which, in their opinion, were hostile to the Protestant Constitution of the realm. Adverting to the conduct of the clergy, he begged to remind their Lordships that the late Archbishop of Canterbury had reprimanded a clergyman in the city of London, for inviting persons into his church after the service for the purpose of signing a petition. But, had any Noble Lord said a single word respecting the conduct of the Catholic clergy of Ireland, who, it was well known, during a late celebrated election in that country, had allowed their churches to be applied to the furtherance of political objects?

Lord Mountcashel, on the following day, observed upon a petition, which had been presented by Lord Plunkett as "signed by about one half of the Protestant members of the Irish Bar," in favour of the Relief Bill, that "no doubt they had done so to "preserve their fees." Lord Eldon, though opposed to the views of the petitioners, did not suffer this aspersion upon them to pass unnoticed.

He expressed his belief that the Bar was as independent a body as any in the kingdom. He had now ceased to be "a learned lawyer:" but his recollection of the English Bar enabled him to bear testimony to the integrity of that profession.

To the opponents of Roman Catholic Relief, the measure was rendered the more obnoxious by the sudden change in the opinions of various members of both Houses, who had up to that time been strenuous Anti-Catholics. Lord Eldon, however, unlike some of his party, had preserved his temper throughout. One of the petitions which he had presented was from some tailors at Glasgow, who disapproved of the change in the opinions of the leaders of the Government. When he laid it on the table, Lord King, who was very zealous for the bill, cried out, "What! do the tailors trouble themselves about such a change?"—"No wonder," replied Lord Eldon; "you can't suppose that tailors like turncoats!"

This story Lord Eldon himself used to relate. Another, in a somewhat similar vein, is reported in the Parliamentary Debates of 19th February 1829. On that day, after presenting a great number of Petitions against further concessions to the Roman Catholics, he said,

> There was one of them which he did not well know how to treat. It was a petition signed by a great many ladies. He was not aware that there was any precedent to exclude the ladies from their Lordships' house; but he would look into the Journals, and see whether there existed any precedent to prevent the ladies from forwarding their remonstrances to that House, against measures which they considered injurious to the Constitution.
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> Lord King inquired whether the petition expressed the sentiments of young or old ladies? [*A laugh.*]
>
> The Earl of Eldon said, he could not answer the Noble Lord as to that point; but of this he was sure, that there were many women who possessed more knowledge of the Constitution, and more common sense, than some descendants of Chancellors. [*A laugh.*]

It was on the afternoon of the 31st of March, that the Roman Catholic Relief Bill, having passed the

House of Commons, was read a first time in the House of Lords: and Lord Eldon and other Peers contended, but without success, against the appointment of so early a day as the 2nd of April for the second reading. On the 2nd of April the debate began, and continued during that and the two succeeding nights; on the last of which, Lord Eldon made another stand against the principle of concession to the Roman Catholics, although, being oppressed by gout, he avoided going at large into the question.

After giving credit to the Duke, to Mr. Peel, and to other members of the Government who had formerly resisted the admission of the Roman Catholics, for the motives which had induced them to change their policy, and after defending himself upon some points on which he considered himself as having been unfairly attacked by Lord Chancellor Lyndhurst, he reviewed the course of his own life in regard to these claims, and adverted to the obloquy which he had experienced in office by reason of his resistance to them. He had hoped to be freed from that obloquy now that he had withdrawn into private life; but regretted to find that it was still thought a pleasant thing in Parliament to have a dash at the old Chancellor. "It brings to my mind," continued he, "an anecdote, which, though not perhaps well suited to " this serious question, I will, with the patience of the House, " take the liberty to mention. I was once at Buxton with " my venerable friend Lord Thurlow, who went there for the " benefit of the waters. I called on him one evening at the " inn where he was sitting, when he told me that he had heard " there were six or eight persons in the house who meant " to have a dash at the ex-Chancellor in the bath next morning. I asked him what course he intended to take, and he " replied prudently, that he meant to keep out of the way. " The misfortune is, I have not been able to keep out of the " way of those who have been anxious to have a dash at me." [*Hear, and a laugh.*]—He went on to say, that the Government he belonged to had been taunted by the Lord Chancellor with having some years since acceded to a large measure of relief, which that same Government had previously refused on its accession to office in 1807.* The fact was simply this: — He had been of opinion that officers of the army or navy, qualified to serve in Ireland, were qualified to serve in the same capacities in England. But doubts existed upon this point: and it had not been thought prudent that such a matter should be rested on any authority less conclusive than an Act of Parliament. Therefore it was that he had concurred in a statute, which removed this doubt, and with which his opinion exactly accorded. — He would not in that place enter upon any consideration of the Coronation oath: that question was one to be settled between the King and his God. He admitted the strict right of the Legislature to dissolve, if necessity should require it, the Constitution which had been settled at the dates of the Revolution and of the Union with Scotland: but the necessity should be proved, and there ought to be no strong and reasonable apprehension as to the consequences. The Constitution of 1688 was the pride and honour of the country; and they could not make an alteration in it without, in some degree, altering the notions of the people as to its excellence. To produce doubt, alarm, and discontent among the people was a practical evil which it was difficult to counterbalance by any theoretical good. The people were justly attached to the Constitution of 1688; they looked to it as the foundation and bulwark of their freedom. If a part were changed, there might be a change of the whole; and that change they dreaded. Perhaps the state of the opinions of the people might be more manifest to one who had risen from the people, and who had been long in communication with the people, the strength and ornament of the empire, than to most of their Lordships, the proprietors of hereditary titles. The people felt it to be their Lordships' duty, and a duty the most paramount that they had to execute, to preserve, in this Protestant kingdom, the Protestant religion. He desired to reserve himself upon the accompanying measure for the alteration of the elective franchise in Ireland: but, as to the securities offered by that measure, his humble opinion was that they were a perfect nullity. He recurred to his often-declared opinions respecting the necessity for a strict union between the Church and the State, — enforced the duty of the State to provide for its subjects the present system of Christianity, — and contended that the Established Church of Ireland could not be endangered without some peril to the Established Church of England. He insisted on the necessity for maintaining, and on the duty of the Ministers to maintain, the supremacy of the King, which this bill proposed to abandon. He scouted the notion that this bill, any more than the repeal of the Test and Corporation Acts, would bring round to the support of the Church those opponents, who, whether Roman Catholics or Dissenters, alike regarded her with abhorrence, though for different reasons. He regretted the apathy, both of the people and of the clergy, in this great crisis.

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* The statute 57 Geo. 3. c. 92. was referred to as the act giving this relief. But that act merely abolished tests precedent to the delivery of naval or military commissions, retaining all tests required to be taken after such commissions should have been accepted. The act which enabled officers, qualified in Ireland, to serve in England and elsewhere, was the 53rd of Geo. 3. c. 128. See Chap. XXXV. of this work.

The second reading was carried by a majority of 105. The 7th and 8th of April were occupied in Committee on the bill, Lord Eldon taking an active and frequent part. On the former of these two days, the first clause having been read,

Lord Eldon said he considered each clause of the bill as being open to the exception, that the oath of supremacy was superseded. No less a man than Lord Chatham had said, that the Legislature had as good a right to repeal the Bill of Rights as the oath of supremacy. But by this bill the Protestant alone was required to take it, and the Roman Catholic was absolved both from that oath and from all the declarations against those doctrines of the Romish Church, which had until that time been designated as idolatrous. * * * * * A Right Reverend Prelate had that evening said, and said very truly, that we were all members of the Christian Church. If that was inserted into the oath to be taken under this bill by the Roman Catholics, then, indeed, there would be something admitted by them. But who ever found that the professors of the Roman Catholic religion admitted any such thing as that the Protestant Church was a branch of the Christian Church, or its members, members of the Christian Church? If they would admit *that* into the oath, it would be a very great satisfaction to him; but looking at the proceedings that had taken place, and the doctrines lately preached in Ireland, every Noble Lord must see, that if such a passage were admitted into the oath, the Roman Catholics would not much admire the bill. By this bill, Catholics were not required to admit the supremacy of the Crown in ecclesiastical matters; but let their Lordships look at their history, their Constitution, their Acts of Parliament, and their Law Books, and tell him if the supremacy of the Crown, in matters ecclesiastical, was not a material part of the British Constitution? He begged their Lordships to think indulgently of him, who had sworn over and over again—ay, forty times—that his Majesty had this supremacy,—he begged of them to think indulgently of him, if he could not presume to take away a supremacy, which had been recognised as an indisputable right of the Crown ever since the reign of Edward the Confessor. He could not—he would not—break the oath he had so taken. He had no hesitation in admitting that, on a late occasion, he did not like to oppose himself, under the influence of a teasing gout, to the formidable alliance of those who took different views on this subject; but, if he were able to attend on the third reading of the bill, he would go through it more largely.

Being called up again, by some observations of the Bishop of Llandaff,

Lord Eldon added, that a man who would not allow the Right Reverend Prelate to be a member of the Christian Church, which the Roman Catholics denied him to be, was not very fit to become the companion of the Right Reverend Prelate as a member of the Legislature.

The Lord Chancellor combated the assertion that the

Catholics denied the Church of England to be a Christian Church, upon which point he referred to the evidence of Dr. Doyle. He controverted some of Lord Eldon's reasonings respecting the oath of supremacy, and intimated that Lord Eldon had been arguing against his better knowledge. "Now, "my Lords," continued the Chancellor, "are we to be over-"borne by the talent, the learning, and the name of the "Noble and Learned Lord, who comes down here and deals "with subjects of so much importance in this way?"

Lord Eldon briefly defended himself against this imputation of uncandid dealing, and said he had with him the authorities which he considered to bear out his argument. "I have "now," continued he, "been twenty-nine years in this "House, and have, on all public questions, spoken my "opinions, sometimes perhaps in language too strong; but I "have now to tell the Noble and Learned Lord on the Wool-"sack that I have never borne down the House, and I will "not now be borne down by him, nor twenty such."

On the 10th of April, before the motion for the third reading of the Relief Bill, many petitions were presented for and against it. In the course of the discussions upon them, Lord Eldon, having referred to the opinions of Mr. Canning, was corrected by Lord Haddington; in reply to whom,

Lord Eldon said that he had long acted in office with Mr. Canning, and he begged the Noble Earl to believe that he had not spoken of him with disrespect. He never would speak disrespectfully of any great man after his decease.

Lord Grey having presented a petition from the students at law,

Lord Eldon took occasion to state, that he had himself foreborne to present a petition against the Roman Catholics, most numerously and respectably signed by the under-graduates and bachelors of arts in the University of Oxford and drawn up in excellent language, because, with the utmost respect for the petitioners, he considered, having the honour to hold the distinguished office of High Steward in that University, that it was right to discountenance petitions of this kind from young persons in a course of discipline and education.

The Duke of Wellington presently afterwards moved the third reading of the Relief Bill. Lord Camden began the debate, and was followed by Lord Granville.

Lord Eldon then addressed the House,—probably, he said, for the last time. After five-and-twenty years of conscientious opposition to measures like the present, he was anxious to take this final opportunity of stating his opinion and the grounds of it. He assured the House that after this bill should have passed, strong and deep-rooted as were his objections to it, he should feel it his duty to endeavour, by every means in his power, to soothe down the agitation which it had created, to let his countrymen know that it was their duty to obey the laws, however they might have been opposed to them while in their progress through Parliament. It was not his desire — God forbid! — to add in any way whatever to the agitation which he knew existed in the country to an extent at which he was affrighted. He would be satisfied to pass the remainder of his days in retirement from public life — satisfied that, during the many years in which he had been engaged in public life, he had endeavoured to do his duty, and that he had done it sincerely and conscientiously in opposing the present bill. During a long course of years he had considered the nature and tendency of such a bill as this with all the attention in his power; and though he admitted that consistency in error was one of the greatest blots which could attach to the character of a statesman,—and though he should be ashamed to claim credit for consistency in any opinion if he could for an instant see that it was one which he could not justify, — yet with every disposition to discover the error in his opinion, if error there was, he had considered this question over and over again in every possible point of view; and after all that consideration, he would say, that, so help him God! he would rather perish that moment than give his consent to the bill before their Lordships. He thought this bill the most dangerous that had ever been presented to the consideration of Parliament. Could it be a matter of pleasure or of comfort to him to stand in the situation he did, in opposition to the Noble Duke and those other friends from whom he now differed so widely on this point? He owned it would have given him pleasure to support them, if he could have done so conscientiously. The Noble Duke would do him the justice to acknowledge that he had not found him inflexible on other points, or in any public measure, except on this. That he differed from him on this, he regretted; but his opinion, after all he had heard on it, was unaltered and unalterable. With respect to the Right Hon. Secretary, the leader in the other House *, he must say, that there never was a man to whose feelings and opinions he was more sincerely attached, and no circumstance of his life gave him more pain than the divulsion from him on this subject. — He adverted to the general impression from the publication of the Duke of Wellington's letter to Dr. Curtis, that no concession to the Roman Catholics would be introduced in that Session, and complained of the present measure as being consequently a surprise upon the public. He insisted upon the incompatibility of the pretensions of the Irish priesthood with the law of the land. He blamed the Government for not having instituted prosecutions against Mr. O'Connell and other leading agitators, and foreboded that the bill then in progress for the suppression of the Roman Catholic Association would be ineffectual for its purpose. He quoted a declaration of Dr. Doyle in his pastoral letter, that matters would never be set right until there were a Roman Catholic King and a Roman Catholic Legislature. In that opinion he could not avoid coinciding. If the present law were considered an insult by the Catholics, they would still feel themselves insulted so long as a Catholic was disabled from sitting on the throne. When Roman Catholics were admitted to power, the principle was conceded, and there could be no limitations as to number. When Noble Lords looked at the manner in which the House of Commons was filled, he would

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* Mr. Peel.

ask whether all that was stated, about only twenty Roman Catholic members getting into the House, was not, in the opinion of every man who knew what was going on in the world, downright nonsense? The forty-shilling freeholders were to be disfranchised, but the influence of the priests would be exercised upon the electors who remained; and after the act was passed, what was to prevent as many Roman Catholic members from getting into the House of Commons as there were means to provide seats for, whatever those means might be? The advocates of the measure contended, that little danger was to be apprehended from it, because it was not likely that a Protestant King would place a Roman Catholic in any important office of trust. What would be the consequence? Why, that instead of the feeling of dissatisfaction on the part of the Catholics being directed against the law of the country as heretofore, the King would be placed in such a situation, that it must be directed against him. — After reviewing and insisting upon the settlement made of the constitution by the Revolution of 1688 and the Act of Union with Scotland, and indicating his doubts respecting the fitness of the Irish disfranchisement which was intended to accompany this relief bill, he protested against the present measure, as fraught with ruin to the purest Church and the purest system of Christianity which the world had ever seen. "I believe," concluded he, "that I know something of the "Catholic clergy and of their feelings towards our Pro-"testant Church: and though it is late in life for me to alter "my opinion, I should be willing to think better of them if I "could. But I do declare, my Lords, that I would rather "hear at this moment that to-morrow my existence was to "cease — an illustration, however, which I put as of no "great force, since I should look upon that event as anything "but an affliction — than to awake to the reflection that I "had consented to an act which had stamped me as a violator "of my solemn oath, a traitor to my Church, and a traitor to "the Constitution!"

At the close of this debate, the House divided for the last time upon the great question involved in it, The third reading of the Relief Bill was carried by a majority of 213 against 109; and a protest, signed by many Peers, of whose names that of Lord Eldon is the first, remains upon the journals of that day, the 10th of April, as the concluding memorial of his powerful efforts in this protracted contest.

The passionate, but weak resistance of George IV. to the Catholic Relief Bill, is described in a long memorandum, minuted by Lord Eldon himself, of two interviews which he obtained from the King for the purpose of presenting numerous addresses against the measure. This paper pourtrays, very graphically, the fluctuations in the mind of George IV., and exhibits, in a striking point of view, the contrast between his character and that of his father. The first of Lord Eldon's two visits was on the 28th of March 1829, and lasted about four hours.

> "His Majesty employed a very considerable portion of time in stating all that he represented to have passed when Mr. Canning was made Minister, and expressly stated that Mr. C. would never, and that he had engaged that he would never, allow him to be troubled about the Roman Catholic question.
>
> "He blamed all the ministers who had retired upon C.'s "appointment; represented, in substance, that their retire-"ment, and not he, had made C. minister. He excepted "from this blame, in words, myself."

Lord Eldon's memorandum, after refuting this allegation of the King's as to the cause of Mr. Canning's appointment, recapitulates some other less important passages of the conversation, and then reports his Majesty to have said, with reference to the formation of the Duke of Wellington's Government in 1828,—

"That at the time the Administration was formed, no reason was given him to suppose that any measures for the relief of the Roman Catholics were intended or thought of by ministers: that he had frequently himself suggested the absolute necessity of putting down the Roman Catholic Association — of suspending the Habeas Corpus Act to destroy the powers of the most seditious and rebellious proceedings of the members of it, and particularly at the time that Lawless made his march: — that instead of following what he had so strongly recommended, after some (the exact time I cannot recollect that he mentioned, but some) time, not a very long time before the present Session, he was applied to to allow his ministers to propose to him, as an united Cabinet, the opening the Parliament by sending such a message as his speech contained: — that, after much struggling against it, and after the measure had been strongly pressed upon him as of absolute necessity, he had consented that the Protestant members of his Cabinet, if they could so persuade themselves to act, might join in such a representation to him, but that he would not then, nor in his recommendation to Parliament, pledge himself to any thing. He repeatedly mentioned that he represented to his Ministers the infinite pain it gave him to consent even so far as that.

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"He complained that he had never seen the bills — that the condition of Ireland had not been taken into consideration — that the Association Bill had been passed through both Houses before he had seen it — that it was a very inefficient measure compared to those which he had in vain, himself, recommended — that the other proposed measures gave him the greatest possible pain and uneasiness — that he was in the state of a person with a pistol presented to his breast — that he had nothing to fall back upon — that his Ministers had threatened (I think he said twice, at the time of my seeing him) to resign, if the measures were not proceeded in, and that he had said to them 'Go on,' when he knew not how to relieve himself from the state in which he was placed: — and that in one of those meetings, when resignation was threatened, he was urged to the sort of consent he gave, by what passed in the interview between him and his Ministers, till the interview and the talk had brought him into such a state, that he hardly knew what he was about when he, after several hours, said 'Go on.' — He then repeatedly expressed himself as in a state of the greatest misery, repeatedly saying 'What can I do? I have nothing to fall back upon:' and musing for some time, and then again repeating the same expression.

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" In this day's audience his Majesty did not show me many papers that he showed me in the second. — I collected, from what passed in the second, that his consent to go on was in writings then shown to me. After a great deal of time spent," (still in the first interview) " in which his Majesty was sometimes silent — apparently uneasy — occasionally stating his distress — the hard usage he had received — his wish to extricate himself — that he had not what to look to — what to fall back upon — that he was miserable beyond what he could express; — I asked him whether his Majesty, so frequently thus expressing himself, meant either to enjoin me, or to forbid me, considering or trying whether any thing could be found or arranged, upon which he *could* fall back. He said, 'I neither enjoin you to do so, nor forbid you to do so; but, 'for God's sake, take care that I am not exposed to the humi-'liation of being again placed in such circumstances, that I 'must submit again to pray of my present Ministers that 'they will remain with me.' He appeared to me to be exceedingly miserable, and intimated that he would see me again.

" I was not sent for afterwards, but went on Thursday, the 9th April, with more addresses. In the second interview, which began a little before two o'clock, the King repeatedly, and with some minutes interposed between his such repeated declarations, musing in silence in the interim, expressed his anguish, and pain, and misery, that the measure had ever been thought of, and as often declared that he had been most harshly and cruelly treated — that he had been treated as a man, whose consent had been asked with a pistol pointed to his breast, or as obliged, if he did not give it, to leap down from a five pair of stairs window — what could he do? What had he to fall back upon?

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"I told him that his late Majesty, when he did not mean that a measure proposed to him should pass, expressed his determination in the most early stage of the business: — if it seemed to himself necessary to dissent, he asked no advice about dismissing his Ministers: he made that his own act — he trusted to what he had to hope for from his subjects, who, — when he had placed himself in such circumstances, and protected them from the violence of party, if party, meaning to be violent, should get uppermost, — could not leave him unsupported — that on the other hand, there could not but be great difficulties in finding persons willing to embark in office, when matters had proceeded to the extent to which the present measures had been carried, — as was supposed, and had been *represented, after full explanation of them to his Majesty,* — and he had so far assented.

"This led to his mentioning again what he had to say as to his assent. In the former interview it had been represented that, after much conversation *twice* with his Ministers or such as had come down, he had said, 'Go on;' and upon the latter of *those two* occasions, after many hours' fatigue, and exhausted by the fatigue of conversation, he had *said,* 'Go on.' He now produced *two papers,* which he represented as copies of what he had written to them, *in which he assents to their proceeding and going on with the bill,* adding certainly in each, as he read them, very strong expressions of the pain and misery the proceedings gave him. It struck me at the time that I should, if I had been in office, have felt considerable difficulty about going on after reading such expressions; but whatever might be fair observation as to giving, or not, effect to those expressions, *I told his Majesty it was impossible to maintain that his assent had not been expressed,* or to cure the evils which were consequential, — after the bill, in such circumstances, had been read a second time, and in the Lords' House with a majority of 105. This led him to much conversation upon that fact, that he had, he said, been deserted by an aristocracy that had supported his father — that, instead of forty-five against the measure, there were twice that number of Peers for it — that every thing was revolutionary — every thing was tending to revolution — and the Peers and the aristocracy were giving way to it. They (he said more than once or twice more) supported his father; but see what they had done to *him*. I took the liberty to say that I agreed that matters were rapidly tending to revolution — that I had long thought that this measure of Catholic emancipation was meant to be and would certainly be a step towards producing it — that it was avowed as such with the Radicals in 1794, '5, and '6:—that many of the Catholic Association were understood to have been engaged in all the transactions in Ireland in 1798 — and what had they not been threatening to do if this measure was not carried, and even if it was carried? But I thought it only just to some of the Peers who voted for the bill to suppose that they had been led, or misled, to believe that his Majesty had agreed and consented to it.

"He then began to talk about the Coronation oath. On that I could only repeat what I had before said, if his Majesty meant me to say any thing upon the subject. Understanding that he did so wish, I repeated that, as far as his oath was concerned, it was matter between him, God, and his conscience, whether giving his Royal Assent to this measure was 'supporting, to the utmost of his power, the Protestant reformed religion.' That it was not my opinion, nor the opinions of Archbishops, Bishops, or Lay Peers (*all which he must know*, as well the opinions in favour of the measure as those against it) that were to guide and govern him; but he was to act according to his own conscientious view of the obligations under which such an oath placed him.

"Little more passed — except occasional bursts of expression, — 'What can I do? What can I now fall back upon? 'What can I fall back upon? I am miserable, wretched, my 'situation is dreadful; nobody about me to advise with. If 'I do give my assent, I'll go to the baths abroad, and from 'thence to Hanover: I'll return no more to England — I'll 'make no Roman Catholic Peers — I will not do what this 'bill will enable me to do — I'll return no more — let them 'get a Catholic King in Clarence.' I think he also mentioned Sussex. 'The people will see that I did not wish this.'

"There were the strongest appearances certainly of misery. He, more than once, stopped my leaving him. When the time came that I was to go, he threw his arms round my neck and expressed great misery. I left him about twenty minutes or a quarter before five.

"I certainly thought, when I left him, that he would express great difficulty when the Bill was proposed for the Royal assent (great, but which would be overcome) about giving it. I fear that it seemed to be given as matter of course."

Lord Eldon to Lady F. J. Bankes.

(April 14th, 1829.)

"The fatal Bills received the Royal assent yesterday afternoon. After all I had heard in my visits, not a day's delay! God bless us, and His Church!"

Extracts of Letters from Lord Eldon to Lady F. J. Bankes.

(April 30th, 1829.)

"I went to the Levee in consequence of a communication that it was much desired that I should do so by the King. I was grieved that my visit was a visit of duty to a Sovereign whose supremacy is shared by that Italian priest, as Shakespeare calls the Pope. But I heard that he much wished it, and I understood that it would be a relief if I would go. I was certainly received with a very marked attention. I followed those who are in the high places of office, to whom one bow was made. When I was about to pass, expecting the same slight notice, he took me by the hand and shook it heartily, speaking with great kindness. It was very much remarked that he showed to the late minority a degree of attention, not manifested to those, who, I understand, he much complained of, as having forced him to the late disastrous measure. I have been told this morning, that, at his dinner, he expressed great pleasure at having had his friend Lord Eldon by the hand at his Levee —

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He is certainly very wretched about the late business. It is a pity he has not the comfort of being free from blame himself. The ladies to-day are swarming to the drawing-room: but I don't go to-day, my visit of yesterday being occasioned by particular circumstances, which I have mentioned.

"May 2nd, 1829.

"The universal talk here is about the manner in which the King, at the Levee, received the voters for the Catholics —most uncivilly—markedly so towards the Lords Spiritual, the Bishops who so voted, — and the civility, with which he received the anti-Catholic voters, particularly the Bishops. It seems to be very general talk now, that his Ministers went much beyond what they should have said in Parliament as to his consent to the measure. Consent however he certainly did; but with a language of reluctance, pain, and misery, which, if it had been represented, would have prevented a great deal of that ratting, which carried the measure.

"The Duke of Cumberland dined with me yesterday. No company but Mamma and Bessy."

(Probably May 1829.)

"If your scrap, laudatory of your father, which came in your letter, is not returned in this, you may be assured it will be returned in some other epistle. I fought as well as I could, but I am not what I was; and I never was what a statesman —an accomplished statesman — ought to be. Indeed a lawyer hardly can be both learned in his profession and accomplished in political science. The country will feel—deeply feel — the evils arising from this late measure. Not that those evils will be felt in its immediate effects. Those in whose favour the measure has taken place are too wary — far too wary — to give an alarm immediately; but few years will pass before its direful effects will be made manifest in the ruin of some of our most sacred, and most reverenced, and most useful establishments."

(May 9th, 1829.)

"We have had an instance of the great uncertainty of human judgment, even where it is the judgment of the most able to judge, as to the matter of which they judge. Lord

Colchester has been long ill: Pennington told us on Thursday afternoon, that, though he was still very unwell, he was sure to get well. Poor fellow! he died yesterday morning. He was a worthy man — very laborious — and had acquired very considerable knowledge, particularly of parliamentary and constitutional matters. He was somewhat vain — but who is without faults? We had a great loss from his absence, from illness, during the late debate in the House of Lords upon the Catholic Bill. He understood that business well, and was quite alive to all the evils of it.

The only subject, upon which Lord Eldon entered into debate between Easter and the close of this Session was the bill of Lord Chancellor Lyndhurst, for expediting the business of the Courts of Equity. This bill proposed that the Crown should have power to appoint an additional Equity Judge. The Lord Chancellor, in moving the second reading of it, on the 12th of May, did justice to Lord Eldon's labours in the following terms: —

"I owe it to the Noble and Learned Lord to say, that the "same evil exists — to the same extent, in my time, as it existed in his. It is impossible for me, — notwithstanding the "political differences which now divide us, — it is impossible "for me, I say, having once mentioned the name of that "Noble and Learned Lord, not to add, that no man, sitting "on the same Bench which he so long filled and considering "the nature of his decisions, can refrain from admiring his "profound sagacity, his great erudition, and his extraordinary "attainments. It has been often said in the profession, that "no one ever doubted his decrees, except the Noble and "Learned Lord himself. I am sure, from the short opportunity which I have had of judging of them, that none of "his predecessors ever had a more complete command of the "whole complicated system of Equity, than that Noble and "Learned personage. I therefore feel myself bound to say, "that I do not ascribe the delays which have taken place "in the Court of Chancery to the Noble Earl, but to the

“ system established in that Court. I say that there has *never* “ been sufficient power in the judge, to dispose of causes “ when ready for hearing, since the first establishment of the “ Court of Chancery.”

Lord Eldon, after requesting that time might be allowed for a due consideration of the measure, adverted to the complimentary language employed by the Lord Chancellor, and said, that whatever might have been the political differences between himself and the Noble Lord, he was not the person unwilling to be reconciled; particularly when more had been said in his praise than he deserved. He had, indeed, done all in his power to administer justice with industry, diligence, and fidelity: beyond that, he must claim no credit. He then dwelt upon the importance of frequent sittings by the Lord Chancellor in the Court of Chancery; not, he said, for the purpose of insinuating that the present Lord Chancellor was inclined to be remiss in this respect, but in order to induce some alteration in the existing arrangement of the business in the House of Lords, which made it impossible for any Lord Chancellor to give to the Court of Chancery a sufficient portion of his time. He suggested that a Court of Error should be constituted in Scotland, which he thought would have the effect of diminishing the appeals from that country: as, in English cases, it was found that parties were generally satisfied with the opinion of the twelve Judges of Westminster Hall. He concurred in the observations which the Lord Chancellor had made upon the necessity that the leading Counsel should discontinue the practice of attending more Courts than one. Without such a regulation, the increase of Courts would be an evil rather than a benefit. He had himself been blamed for not deciding cases until he had personally looked into the papers; but the necessity had been imposed upon him by the modern practice of the Bar. He himself and Sir James Mansfield, when they were the leaders of the Court of Chancery, had made it a rule to decline holding briefs in the Exchequer, except when they could do so without detriment to their Chancery clients. But, at the present day, not only were causes impeded by the absence of leading counsel, but replies were made to speeches of which not one word had been heard by the replying barrister, who had all the while been engaged in another Court. It was not likely that this could satisfy the conscience of a judge; and he had therefore been obliged to take the papers home, and so endeavour to get at the information which it was the duty of counsel to have given him. He was willing that the bill should now be read a second time, on the understanding that opportunity was to be given for full consideration of it in its further stages. No man could deny that something must be done with respect to the Court of Chancery, whatever the difficulty of discovering what that something ought to be.

The bill was read a third time on the 21st of May, when

Lord Eldon, without opposing it or denying the necessity of additional force for the administration of Equity, objected to the appointment of any new Equity Judge, until it should be known what changes were contemplated in the Exchequer and other Courts. He observed also upon the great assistance which the standing commission of the Court of Chancery had formerly afforded, when worked by a Common Law Judge and two Masters: speaking in high terms of the services thus rendered by the Masters in Chancery, whose opinion had sometimes overruled that of the Common Law Judge associated with them, and been ultimately sustained by the Chancellor. Further, he took occasion to say that some judges from the Common Law Courts had formed almost as good judges in Chancery as had ever sate in that Court.

The bill was read a third time; but, the Session being far advanced, the subject was postponed to the following year.

In this month of May, the first steps were taken toward the foundation of the Eldon Law Scholarship now established at Oxford. Several noblemen and gentlemen, admirers of the character of Lord Eldon, assembling at the house of the late Lord Arden in St.

James's Place, on the 14th and 18th of May 1829, agreed to open a subscription,

For the purpose "of manifesting, by a suitable and lasting "testimony, the deep and grateful sense" entertained by themselves and their countrymen "of the eminent services "of John Earl of Eldon, throughout a long and laborious "public life, during which his exertions" had "been ably and "uniformly directed to the preservation and maintenance "of the Protestant Constitution of his country."

A subscription was opened accordingly, of which the particular application will be stated hereafter, in reference to the corresponding period of the succeeding year.*

Lord Eldon to Lady F. J. Bankes. — (Extract.)

"Tuesday (19th May 1829).

"You will see in the papers that some persons have advertised to form an Eldon memorial, and have published their names and subscriptions, and have desired all other well-disposed persons to do the like. I have been informed that the Catholic friends say they would very readily have subscribed, if the advertisement had not made my *Anti-Catholic Protestant principles* the prominent feature in the advertisement. To be sure the Catholic friends, if there are any, can't subscribe, — and the advertisers would not subscribe, if *they* could and would. So the thing, which was unknown to me till I read the newspaper, must take its chance. No subscription to be above 20*l.*; there are subscriptions to about 1500*l.* to begin with, on the first day."

In the year 1829 was also established the Eldon School at Vauxhall, founded and supported by Charles Francis, Esquire, "to perpetuate the memory of "John, Earl of Eldon, Lord High Chancellor of Great "Britain; and to commemorate his able, zealous, and "constant defence of the Protestant Reformed reli-

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* Chap. LIII.

"gion against every innovation." The school-house is a neat Gothic structure, capable of accommodating 150 boys. The principal front has a niche containing a statue of the Earl. The school is conducted on the system of Dr. Bell.

About the end of May, some new arrangements of the Cabinet took place, in consequence of the resignation of the office of Lord High Admiral by the Duke of Clarence. Lord Melville again became First Lord of the Admiralty, and was succeeded at the Board of Control by Lord Ellenborough, who had held the Privy Seal.

Lord Eldon to Lady F. J. Bankes.

(1st June 1829.)

"We understand that Lord Rosslyn is to be Privy Seal.

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"It is believed that the wish was to have Lord Grey; but, *that* not being likely to be agreed to by the K., they took Rosslyn as another Whig.

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"The prevailing notion now is, that the Ministers will seduce, out of the three parties,—1. the Whigs—2. the party of Goderich and Huskisson—and, 3. the seceding Tories—not a *batch* of any one of them—but will pick, out of each, such *individuals* as are open to kind embraces, and so decimate each."

Extracts of Letters from Lord Eldon to Lady F. J. Bankes.

(June 1829.)

"I amused myself yesterday morning with a visit to Duchesses, in number two, both violent anti-papists—the Duchess of Richmond and the Duchess of Rutland. They have each an immense quantity of speeches—the latter, some in gold letters, made in better days in favour of Protestantism; but they may as well now throw them all into the fire. Report gives the young Duke of Richmond, who warmly opposed the Catholic Bill, a fixed purpose of general opposition to the present Government. You may remember he did very well in all he said during the debates in the last Session. I hear that he is a great favourite with the K., which seems not to be the fortune, be it good or bad, at this moment, with those addicted to his Ministers."

(June or July 1829.)

"Bessy wrote, I understand, yesterday, as I was shut up nearly the whole day in a Committee of the House of Lords:

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afterwards in an opposition to a bill to authorise the sale of game, and to allow every man who had twenty acres of land to kill game. The Prime Minister opposed this bill also, and we old Tories thought ourselves safe in our views of defeating it; but many of the old Tories, being very much out of humour, would not buckle to, and the Whigs, the old Opposition, all sticking together, and, I suppose, courting popularity with the lower orders by their vote, let the Duke have something like a proof that they were mightier than he, and so he was in a minority."

Lord Eldon now suffered some uneasiness, from the indisposition of his son William Henry, whose eccentricities seem not to have abated his father's interest in him.

Lord Eldon to Lady F. J. Bankes.—(Extract.)

"30th July 1829.

"I rejoice to hear that W. H. is looking better. When he was in town, William Surtees tells me he looked bloated, which William regretted; but that his behaviour was as good as possible. May that Being, who is the source of all happiness, lead him to right ways of thinking, and by them, to that happiness which no man ever wished a son to enjoy more than I have most anxiously wished him to enjoy."

About this time an inflammatory letter upon Irish politics, purporting to be written and franked by Lord Eldon, was sent by the post to some person in Ireland, through whom it found its way to the public. This forgery was the subject of many comments in the newspapers.

Lord Eldon to Lord Encombe.—(Extract.)

(August 23d, 1829.)

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"I am sadly plagued with inquiries from different persons about *my* supposed letter to Ireland. Sir Francis Freeling at the Post Office states the frank to be, as it is, a palpable forgery; and his surprise that it could pass those, who there marked it 'free,' as it is so plainly such and my hand-writing and mode of franking is so perfectly known there: but he does not seem to hope that the forger can be discovered."

The vacation was passed at Encombe: and here follow specimens of its gossip.

Lord Eldon to Lord Stowell.—(Extract.)

(Post-mark, 21st Sept. 1829.)

"I don't know what state you are in, in London, but here, one should think that a second deluge has been ordained: and a tenant of mine, of a house in Kingston here, says, 'It is all owing to the bill in favour of the Romans:' like unto what was reported of a maid-servant, of Lady Goderich who, complaining of wet weather, was informed by the servant, 'Why, madam, you know that Lord Eldon said, if "the bill" passed, the sun of Great Britain was set for ever.'"

Lord Eldon to Lady F. J. Bankes.—(Extract.)

"Thursday (Oct. 29th, 1829).

"I was amused to find here, working in the garden, now something of a man, a person, formerly, when a boy, a favourite with William Henry, and christened by him Jack Nasty. He does his work well, and the gardener, moreover, informs us that he is 'a droll subject,' and is very useful at all hops and dances in this neighbourhood as a musician. He retains, I understand, a very warm affection for W. H., though he has not got him a place in the Victualling Office, which Jack N. supposes to be a mere place for eating and drinking."

Early in this October, Lady Eldon was seized with a violent affection of the brain, arising from a determination of blood to the head, and producing, for the time, a total aberration of the mind. " I shall long remember," says the present Earl, " the distress in which Lord Eldon, to whom such a thing was wholly new, came down stairs to me, and told me that my grandmother did not know him. Mr. Everingham, her medical attendant, being pressed by Lord Eldon to state the truth, expressed his fear that she would not survive the night, — perhaps not many hours. No one but myself was visiting at Encombe at the time, and we sat up during a wretched night, in the course of which my grandfather's mental anxiety considerably aggravated a fit of gout which had already threatened him. It pleased God, however, to ward off the fatal blow. The application of a strong blister at the back of the patient's head had drawn away, by morning, the chief cause of alarm, and a gradual, though not uninterrupted, amendment enabled her in November to return with Lord Eldon to London, which, for the remainder of her life, she did not quit."

One day, toward the period when he finished the Anecdote Book, which was about the end of 1827, he happened to say, looking over a volume of Sayers's Caricatures, in his library, that an interesting account might be written in illustration of them. His grandson, to whom the observation was made, immediately provided a book for this purpose, like that in which the anecdotes had been written; but Lord Eldon made no insertion in it till the 16th of October 1829. By the 5th of November he had written twenty-four pages; but he never afterwards resumed the occupation. Among these illustrations of his, the two following may, perhaps, amuse the reader:

"John Lee, a member of the House of Commons, and one of the law officers of the Crown, in his politics was a warm supporter of Charles Fox, and acted as such, in common with most of those members who had supported Lord Rockingham's administration. He was born of a dissenting family, and educated as a dissenter. But his moderation as a dissenter was great, and through life he manifested that moderation. In private and in public, he always spoke of the Established Church with great respect, and he often attended the service of it. His conversation and conduct at all times were such as proved him to be a person of great suavity of temper, and remarkable kindness of heart. He was not, perhaps, a deep-read lawyer, but he had a most vigorous understanding, and the English Bar never furnished a more powerful Nisi Prius advocate. It ought to be recorded of him that he was the sincere and active friend of young men at the Bar, rejoicing in promoting and witnessing their success in the profession. In the debates upon the India Bill, he unfortunately spoke most contemptuously about charters, particularly that of the East India Company; and expressed in strong terms his surprise that there could be such political strife about what he called 'a piece of parchment, with a bit of wax dangling to it.' This most improvident expression uttered by a Crown lawyer, formed the subject of comment and reproach in all the subsequent debates in Parliament, in all publications of the times, and in every body's conversation. Few men could have survived the odium this expression created; but the man was beloved, and his fault was forgotten."

"Lord Grantley, before his creation as a peer, was Sir Fletcher Norton. He was, in politics, an adherent of the Marquis of Rockingham and his party:—though probably not much to be depended upon by *any* party. He was bred to the Bar, and was, for many years, leader of the Northern Circuit, had the principal business in the Court of King's Bench, and was promoted to the office of Attorney-General. He was nevertheless not a lawyer, but by force of a very quick and vigorous understanding, and a most bold, if not most impudent, manner, and not being troubled with many scruples, as to assertions or conduct, he rose to the eminent station he held in the profession. He was much known by the name of Sir Bull-face Double Fee. He was remarked as betraying the same inaccuracy in his assertions in conversation, as in his pleading. Probably conscious of not being deeply versed in professional learning, it has been reported that he never gave his opinions, as Attorney-General, in writing.* He became Speaker of the House of Commons, and after he was removed from that office, he was created Baron Grantley. It was understood that there had been some quarrel between him and Lord North about the office of Chief Justice of the Common Pleas, when Loughborough was appointed to it. He is said to have spoken disrespectfully of Lord North, and Lord North had no respect for him. The latter having heard that Sir Fletcher had spoken of himself as not in good health, and Sir F. being supposed to have made that representation with some particular view, though he was perfectly well, took occasion, after Parliament was dissolved, and a new Speaker was to be chosen, to express his deep concern that the health of Sir F. Norton made it impossible to propose him again, and his conviction that the House could not expect that in Sir F.'s state of health, he should, at the risk of his existence, again undertake the arduous duties of the Speaker's office, and then proposed that another gentleman should be placed in the Chair. Sir Fletcher, again, and again, and again, assured the House that he never was in better health — that he was perfectly able to undertake and execute the duties, however arduous, of the office, and that the House, he hoped, would not discard him, who had before been their servant and Speaker. Lord North rose again, and stated his extreme reluctance to resist the importunity of a gentleman who had been so valuable a servant of the House, but that humanity forbad him to think of gratifying, however anxious he was to gratify, Sir F.'s wishes. The majority of the House did not like Sir Fletcher, they were under the influence of Lord North, and they voted another gentleman into the Chair."

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* But see Lord Eldon's Speech, 14th Sept. 1831, Chap. LIV.

This was the last year in which Lord Eldon took his once favourite diversion of shooting. The "Sporting Magazine" of February 1838, observes that "to the "last he did not like shooting in company and enter-"tained a good old gentlemanly contempt for battues." His grandson, who was an exception to the venerable Earl's dislike of company in the field, says, that in the autumn of 1829 he twice went out at Encombe with his gun — but never again resumed it. This discontinuance of his old amusement was occasioned in the first instance by the above-mentioned illness of Lady Eldon. In the succeeding year, it was not judged prudent that she should forego the benefit of London advice, even during a few weeks of autumn; and when, after her death in 1831, Lord Eldon resumed his visits to Encombe, he had no longer strength or spirit for the amusements of the field. His activity in following his game at a late period of his life had obtained for him in public report the character of a better shot than his skill quite justified. He then carried a single-barrelled percussion gun, made by Manton. He used to declare that he was far from being so good a shot in later life as he had been when a young Oxonian, without a qualification. "By the time I got a qualification," said he, "I found myself disqualified."

"His conclusion of each season at Encombe," says the present Earl, "is recorded to have been a general jubilee for all his dogs. Pointers, Spaniels, Newfoundlanders, &c., of whatever species and in whatever number they happened to be, were alike permitted to share in making or marring the fortunes of the day."

"I have been told," says Miss Forster, "that one day, during a vacation, when Lord Eldon was going out to shoot, the gamekeeper ordered back some useless dogs of the establishment, which immediately uttered a whine of lamentation. On Lord Eldon's desiring that they should be allowed to accompany him, the gamekeeper respectfully remonstrated, saying, they would destroy all chance of sport. 'Oh, never mind,' answered his kind-hearted master, 'let them go, poor things, it is a pity they should not have the enjoyment.'"

Lord Eldon told his niece, Mrs. Forster, that Lord Stowell, who never was a sportsman, being asked what his brother, Lord Eldon, usually killed when he was at Encombe, answered, " Nothing but time."

Toward the close of his stay at Encombe, in 1829, he wrote several letters to his grandson; and in one of them, written during a fit of gout which had confined him for some days to the house, he says, " I shot yesterday fourteen rabbits and a hare." This looked a little strange from a man who could not set foot to ground. But the next line explains that he had performed this feat by deputy, to wit, by his gamekeeper; and he justifies his claim to the credit of the game killed, by adding, " Qui facit per alium, facit per se." The gout continued importunate for some days longer, but even in pain he had always kind thoughts of his friends. He writes to his grandson,

> " Pray be so good as to let me know how Oliver Farrer " is.* I am bound to enquire after him, he is so good- " tempered, and always so kind to us. I wish his gout was " as mild as mine."

Mr. Morton Pitt, when he sold Encombe to Lord Eldon, held out, as one of its advantages, that the principal turnpike road in the Isle of Purbeck, the road by Kingston Hill, passed near it; but afterwards, having parted with all his estate in that neighbourhood and bought property in Swanage, he tried hard, under the plea of a shorter cut, to get the main road carried away from Kingston Hill in a direction by which Swanage would be more accommodated,

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* Brother of the Master in Chancery.

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enforcing his object on the public mind by long printed letters. Lord Eldon was rather annoyed at this attempt. He alludes to it in a note to Lady F. J. Bankes, not dated, but written apparently about the beginning of November 1829.

"Sunday Morning.

"Our affections to Mr. Bankes. Tell him his friend at Swanage is continuing the trade of authorship, and, as Hannibal reduced the Alps by vinegar, seems determined to break down Kingston Hill by the application of ink. What a strange thing it is that the Pitt family never found out that that was a hill of tremendously steep acclivity and that the road from Corfe to Swanage would be much shorter in its present intended course than it was through Kingston and Langton — till they left Encombe, and Eldon came there! But nothing astonishes me much."

The part which Lord Eldon had taken, in the session of 1829, against the admission of the Roman Catholics to political power, procured for him innumerable marks of respect and confidence from those who saw in that measure, as *he* did, an ill omen for the Church of England. Among those indications of feeling was an address from the Clergy of York and of the West Riding of Yorkshire: a testimonial the more grateful to him, because, as he was known to have given up the prospect and even the wish of returning to his former office, no views of preferment were likely to have influenced the subscribers. In his letter of thanks, addressed to the Clergyman who brought it to London, he says: —

"23rd Nov. 1829.

"I cannot express the satisfaction with which I have received this testimony of the approbation of those, whose approval of my public conduct I must ever consider as a most valuable proof that a body of persons, entitled to the highest respect, have considered that conduct as establishing that I have intended to act as a faithful servant to the King, and as a friend of my country. That the apprehension that the interests of the Established Church and the State *are* brought into danger may eventually prove to be ill-founded, cannot but be the anxious wish of every friend to the country. Such I profess to be my most anxious wish. But, not being able to remove that apprehension from my mind, I must continue to regulate my conduct with respect to the Established Church and the State, as far as it is now possible, by the same principles as have hitherto governed my conduct. May I take the liberty to request you, Sir, to communicate the substance of this letter in such manner, as you may think most proper and most respectful, to the clergymen who have signed the address, as I know not how to act for that purpose, but by writing to you, who did me the honour to bring the address to Hamilton Place. I regret that my absence prevented my paying my respects to you personally when you were in town. — I am, Sir, with much respect,

"Your obliged Servant,

"ELDON."

The present Earl relates, that, from the same feeling which had influenced the Clergy of Yorkshire, several persons totally unconnected with him named their children after him. When such communications were made to him, he would reply, in obliging and suitable terms, of which the following letter may be taken as an instance. It is addressed to John Jn. Butler, Esq. 17, Amiens Street, North Strand, Dublin: —

"Sir, (Franked Corfe Castle, September 27th, 1829.)

"I thank you for the favour of your letter, which I received here two days ago.

"I hope my young namesake will be, hereafter, as anxious as I have been, to form just opinions with respect to the demands which the country has upon all, that belong to it; and that he may succeed in avoiding any errors, into which I may have fallen, however anxiously I have endeavoured to ascertain what *is right*, and to act according to what has appeared to me to be right. Wishing him all happiness in future life, I am, Sir,

" Your most obedient Servant,
" ELDON."

Lord Eldon had the gratification, likewise, both before and after this final struggle with the Roman Catholics, of receiving municipal freedoms and other testimonials of public approbation from many important Corporations, such as those of the cities of Bristol, Cork, Exeter, Dublin, and the Merchant Tailors' Company of London. A specimen of the manner in which he acknowledged these tributes will be found hereafter, in his letter to the Mayor of Exeter, under the date of September 1834.

CHAPTER LIII.

1830.

HOUSE OF LORDS: WELSH JUDICATURE: PRODUCTION OF OPINIONS OF LAW OFFICERS: STATE OF THE NATION.—LETTER FROM LORD ELDON TO LORD STOWELL.—HASTINGS'S ESTATE BILL: LORD ELDON'S CONTINUING INFLUENCE IN THE LEGAL BUSINESS OF THE HOUSE OF LORDS.—ELDON LAW SCHOLARSHIP.—BILL TO CONSTITUTE EQUITY JUDGE.—DEMISE OF GEORGE IV.—DEBATE ON PROVISION FOR THE CONTINGENCY OF AN INFANT SOVEREIGN.—FORGERY BILL: SCOTCH JURY BILL: EAST RETFORD BILL.—KING WILLIAM IV. AND LORD ELDON.—DISSOLUTION: UNFAVOURABLE FEELING TOWARDS THE MINISTRY.—LETTERS OF LORD ELDON TO LADY F. J. BANKES, LORD ENCOMBE, AND LORD STOWELL.—REPORTED OVERTURES TO LORD PALMERSTON.—MEETING OF PARLIAMENT.—MINISTERS DEFEATED ON THE CIVIL LIST: DISSOLUTION OF THE DUKE'S GOVERNMENT.—FORMATION OF EARL GREY'S.

LORD ELDON took part in the business of the House of Lords on several occasions during the year 1830. On the 25th of February, when a petition was presented against the projected alteration of the Welsh judicature,

> He expressed his disapprobation of the proposal, on this among other grounds, that the Welsh Circuit Courts, as then constituted, with an equitable as well as a legal judicature, brought home the administration of Equity to the doors of the inhabitants of the Principality, and this so satisfactorily, that in twenty-five years he remembered only one appeal: whereas the new arrangement would force all Welsh suits in Equity to the metropolis.

Lord Clanricarde having asked, on the same evening, for the production of an opinion, given to the Crown by its law officers on the affairs of Portugal, and quoted by the Duke of Wellington in a recent debate,

Lord Eldon supported the Duke of Wellington and the Chancellor in resisting the request. Considering, however, that the opinions of the law officers must necessarily have an influence with the House, he thought that, as they could not be produced by the Ministers, the Ministers ought not to quote them.

Later in the same evening, upon Lord Stanhope's motion for a Committee to inquire into the internal state of the country, then labouring under extreme distress, Lord Eldon again addressed the House, condemning the language employed in the King's speech, and censuring the tone of the Ministers; but as these topics were of a temporary nature, the repetition of them here would hardly interest the reader. The same observation is applicable to the greater part of his speech of March the 18th, in support of the Duke of Richmond's motion for a Committee on the condition of the working classes and the effect of taxation.

The following extracts, from a letter to Lord Stowell, will show the uneasiness with which Lord Eldon now contemplated the state of public affairs. It is not dated, but appears to have been written about April 1830, shortly after the meeting of the French Chambers.

Lord Eldon to Lord Stowell. — (Extract.)

"My very dear Brother,

"Of Lady Eldon I have better hopes than I have had for the last four years — vast as is that space of time which is gone by, at her age.

"It is impossible to contemplate what is passing, and to which you refer, without apprehensions of a very serious kind. What is so passing is a renewal, of a more frightful kind than the prospects of 1791, 2, 3, 4, and 5. The occurrences of those days, involving the Crown as well as the Houses of Parliament, by express mention, in revolutionary projects — the language 'No King' — gave a treasonable character to the proceedings of that era, which enabled Government to deal with it by law. This is now, in their revolutions, and declarations, and petitions, carefully avoided; and the proceedings of this day, therefore, are more difficult to be dealt with, because more difficult to be met by the existing laws. They are, of course, more dangerous. The sacrifice too of the Test Act, and the passing of the Roman Catholic Emancipation Bill, to the intimidation effected by the unpunished, — the rewarded — threats, of the Irish Association of O'Connell and Co., have established a precedent so dangerous, so encouraging to the present attempts at revolution under name of Reform, that he must be, in my judgment, a very bold fool, who does not tremble at what seems to be fast approaching.

"Look too at France. The Ministers beat in the Chamber, on the first day, by a very considerable majority! What the Duke of Wellington will do, I pretend not to guess. What will be said now about the fact that all the occasional laws against sedition have been suffered to expire? Heaven save us now! for in man there is no sufficient help.

"Yours, in very low spirits,
"Eldon."

Though his political position was no longer a commanding one, his influence with the Peers upon legal subjects was undiminished. There was an instance of this during the session of 1830, upon a private bill respecting the estates of the Marquis of Hastings. It was presented to the House of Lords by Lord Eldon himself, during whose Chancellorship a former bill had passed in 1826, relating to the same estates; and he now came down to the Committee to support the principle of the bill, and to advise that, under the circumstances of the particular case, the Committee should recommend it to the House to dispense with the Standing Orders, none of which the promoters of the bill had complied with. Mr. Preston, the celebrated conveyancer, was in readiness to give the necessary explanations; but Lord Eldon having briefly opened the object of the bill, with an intimation of his own opinion that it was justified by general principle, and that its circumstances required the suspension of the Standing Orders, the Peers present, who were unusually numerous, at once said: "Since your Lordship is satisfied, the Com-"mittee is satisfied, and there is no occasion at all "to trouble counsel." They reported in favour of the dispensation, 24th of May 1830, and the orders were dispensed with accordingly. Now, of course, *some* allowance must be made for the natural disinclination of their Lordships to hear a long argument about the bearing of the Standing Orders and the technicalities of conveyancing, even from so profound a lawyer as Mr. Preston (by whose kindness this anecdote is furnished): but, at least, it was a strong recognition of Lord Eldon's legal supremacy, to accept his single opinion in full of all the customary precautions of the House.

In the month of May 1830, the subscription which had been opened in the preceding year for the Eldon testimonial amounted to almost 7800*l.*, of which, after all expenses were deducted, a clear sum of 7562*l.* remained applicable to the object of the subscription.*

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* At a general meeting of the subscribers, held at the Thatched House Tavern, on the 12th of May 1830, the Duke of Richmond being in the Chair, a series of resolutions were passed, of which the following are the most material: — That it appears to this meeting.

It has since received still further additions, and, at the end of 1843, it consisted of 8738*l.* consols, and 350*l.* cash.

Lord Lyndhurst, whose bill of the preceding year, for facilitating the disposal of suits in Equity by

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that a testimonial at once creditable to the subscribers and honourable to the Earl of Eldon, would be the establishment of an Eldon Law Scholarship at Oxford, thereby recording Lord Eldon's connection with the profession of the Law, and with the University of which he was so distinguished an ornament; and at the same time conferring a real benefit, as well as a distinction, upon meritorious individuals who may have to struggle with difficulties in the early part of their professional career.

That the candidates be Protestants of the Church of England and Members of the University of Oxford, who having passed their examination for the Degree of Bachelor of Arts, shall have been rated in the first class in one branch at least of examination, or shall have gained one of the Chancellor's prizes, and who shall intend to follow the profession of the Law.

That the Trustees, at a meeting at which not less than five shall be present, shall select one of these candidates, and that the election take effect from the 4th of June, being Lord Eldon's birth-day.

That the Trustees shall pay a sum not exceeding 200*l.* per annum for three years, to each Eldon Scholar, by which time he may be called to the Bar; that the payment be made half-yearly, and that the Scholar must produce proof that he has regularly kept his terms at one of the Inns of Court, or that he has been prevented by such illness as the Trustees consider to justify and require a departure from this rule.

That upon the death or resignation of an Eldon Scholar, or upon his failing to keep his terms as above provided, the Trustees shall withhold their payments, and shall elect another Scholar.

That whenever, and as often as, by accumulation, by donations which have not yet been received, but which may be expected, or by bequests, the sum in the hands of the Trustees shall be increased, so as to afford the means of establishing an additional Scholarship of equal value, the Trustees shall elect another Scholar upon similar conditions.

That the entire management of the funds and the arrangement of all details, be left to the Trustees.

That the Right. Hon. Lord Tenterden, Lord Chief Justice of England, be requested to accept the office of Visitor to this *foundation*, and that whenever a vacancy shall occur, the Trustees shall appoint another Visitor, who must be a Protestant of the Church of England.

means of an additional judge, had failed from the lateness of the season, introduced, in the present session, another bill having a similar object.

On the motion for the third reading, 26th of May, Lord Eldon repeated his opinion that the appointment of a new Judge might be dispensed with by due recourse to the Court of Exchequer and to a Commission of Assistance, composed of a puisne Baron and two Masters in Chancery: setting great value upon the Masters, who disposed, he said, of more questions of importance in the course of the year than any of the puisne Barons. Therefore, until the decision of the Legislature upon the then pending proposal for the appointment of an additional Judge in each of the Common Law Courts,—which, if executed, would make one of the Exchequer Barons available for Equity, and thus render it unnecessary to appoint the additional Judge whom this bill proposed to constitute,—he would rather postpone the consideration of the present bill; and he moved that its third reading should take place on that day fortnight.

This amendment was negatived, on a division, by 11 against 4,—and the bill went down to the Commons; where it was strongly opposed, and ultimately abandoned by reason of the premature termination of the session, consequent upon the demise of the Crown.

Although the official career of Lord Eldon had finally closed in the year 1827, he now saw, with much regret and sympathy, the decay in the constitution of King George IV., who, for many years, had distinguished him not only with his political but with his personal favour. At the end of May 1830, the pain and weakness under which his Majesty laboured had made it necessary to pass an act of parliament allowing the substitution of a stamp for his manual signature, in the case of those documents which, by common law, required the sign manual. In the following month the progress of dropsy became rapid: and on Saturday the 26th of June the King expired.

King William IV., on succeeding to the Crown, sent a message to Parliament, in the latter part of which he recommended that provision should be made for the public service during the interval that might elapse between the close of that session and the meeting of another Parliament. When this part of the message was brought under the consideration of the House of Lords on the 30th of June, Lord Grey moved an adjournment, in order that time might be afforded for deliberating upon the best mode of provision for the possible demise of the Crown before the assembling of the new Parliament, in which event an infant Sovereign would succeed to the Throne.

Lord Eldon supported the motion. The Ministers, he said, might like to have an infant Sovereign, a little King or Queen that one might play with: if he were a Prime Minister, there was nothing he should like more. But surely some provision ought to be made beforehand for the administration of the Government in a manner less objectionable than by the direct agency of a child of tender years. If an infant Sovereign were to be on the Throne, whose head could not be seen over the integument which covered the head of his Noble and Learned Friend on the Woolsack, he would, by what the Scotch called a fiction of law, and by what the English called presumption, in favour of a Royal infant, be supposed to have as much sense, knowledge, and experience, as if he had reached the years of three-score and ten; but admitting the truth of the supposition in a constitutional sense, was it unreasonable to ask that there should be some party acting for the Sovereign, during what might be termed his natural, though not his political, minority? But there were other cases for which it was the duty of Parliament to make some provision, and he admitted the prudence of considering that to which a Noble Earl (Harrowby) had adverted, — the possibility of a successor to the Throne, though not yet visible, being in existence at the demise of the Crown. There must then be a real or a phantom King, and it was just the same in principle whether this little King was not able to speak or walk, or whether he was only *en ventre sa mère.* To prevent the difficulty to which this would give rise, recourse should be had to the authority of a Sovereign, who was really, as well as constitutionally, able to exercise the prerogatives of the Throne.

The motion for adjournment was negatived.

July was a busy time in the House of Lords. Among the bills sent up from the House of Commons, was one on the subject of forgery, containing a clause which went to abolish capital punishment for the forgery of negotiable securities, stock transfers, or stock receipts. On the 1st of July, the Chancellor having moved the omission of this clause,

Lord Eldon expressed his concurrence in the proposal of the Noble and Learned Lord. This was not an offence to be treated lightly. In very many instances, it would be committed only by some person in whom the injured party placed the fullest confidence. If Noble Lords would look to the public stocks, they would see how easy it was to commit a forgery and abscond, and how all but impossible, when the criminal was once out of reach, to lay hold of him again.

The amendment was carried; but the session closed before the alteration thus made in the bill could be considered in the House of Commons.

Some discussion took place on the 12th of July, when Lord Chancellor Lyndhurst moved the second reading of a bill for the introduction of trial by jury into the proceedings of the Court of Session in Scotland.

Lord Eldon wished to have the measure postponed with a view to a more mature consideration of it. After pointing out several objections to the bill, he said he had derived one great consolation from reading it: for, by one of its clauses, he found it to be taken for granted, though not positively enacted, that his Learned Friend, the Right Hon. William Adam, was to live three years longer. Thus, as he and his Learned Friend were of much the same age, he had parliamentary authority for expecting that he himself had three years longer to live.

This bill appears to have been lost by the prorogation of Parliament in the succeeding week.

The bill for the disfranchisement of East Retford was frustrated by the same cause. When it was discussed on the 19th of July, Lord Eldon opposed it, on the same grounds on which he had resisted the disfranchisement of Stockbridge, Grampound, and other boroughs.

King William the Fourth had been of all the Royal family the least known to Lord Eldon. The aged Earl, a year or two before his own death, told Mr. Farrer that he had never conversed with King William but twice, adding: "I went with Dr. Gray, the "late Bishop of Bristol, to present an address. After "it had been presented, as I was passing, the King "stopped me and said, 'My Lord, political parties and "feelings have run very high, and I am afraid I "have made observations upon your Lordship which "now' —— I immediately said, 'I entreat your Ma-

"jesty's pardon, a subject must not hear the language of apology from the lips of his Sovereign'— "and passed on."

Lord Eldon to Lady F. J. Bankes. — (Extract.)

(July 1830.)

"Our Lord the King came to the Chapel Royal yesterday, to take the Sacrament, as the proof that he is in communion with the Established Church. He took great pains to secure the attendance of the Archbishops, and laid his wishes before, if not commands upon, them, to bring all the Bishops they could muster.

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"All the world here is engaged about elections and contests, of which it is said there will be a vast many, and I hear that seats in the next Parliament are very high-priced indeed — much beyond any price in former Parliaments. So much for corruption!"

Before the death of George IV., Lord Eldon had entered his 80th year; but was still robust and hale enough to take exercise on foot. One day, soon after the commencement of the new reign, he was walking in St. James's Street, where a crowd had gathered to see the carriages of some gentlemen, going to the palace with an address. Amidst the throng he felt the hand of a man in one of his pockets: but as it luckily was not that which contained his purse, he contented himself with the thief's disappointment, and, quietly turning to him, said, "Ah! my friend, "you were wrong there: this other was the side."

Parliament was prorogued on the 23rd of July: and, on the following day, dissolved by proclamation. The circumstances, accompanying the general election, were of a character the most unfavourable for the Ministers. Their natural enemies, the Whigs, had resumed the active hostility which, for a time, had been suspended by the progress and accompaniments of the Roman Catholic measure: and the Anti-Catholic party, who had never forgiven the Duke and Mr. Peel for that bill, were eager to mark their distrust and dislike. This was the temper of parties at the dissolution: and, before the elections began, the public mind was thrown into a state of the most violent excitement by that outbreak of the Parisian populace, which drove Charles X. from the Throne of France, and stimulated the malcontents of all countries by the unwonted spectacle of a mob prevailing against a military force.

Lord Eldon to Lady F. J. Bankes.

"19th August 1830.

"To get a thorough insight into the effect of the French Revolution here, you have only to read the proceedings at meetings in London, and all that is stated in them. It will require a master-head, such as Pitt had and nobody now has in this country, to allay what is brewing, a storm for changes here, especially for Reform in Parliament. Every body here seems to think that the borough members of Parliament can scarcely be preserved until another Parliament. Such a change, considering that the present system is the support of a floating aristocracy, must, if it takes place, deeply affect the higher orders, and perhaps the monarchy itself. My head is full of thought upon this subject. I care not who rules, provided our system of Government can be preserved."

Lord Eldon to Lady F. J. Bankes.

"21st August 1830.

"William Henry, who I find has been staying at Salt Hill, called here this morning.

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"In his rides out from Salt Hill, he happened to meet our Sovereign, the King, and with him he dines to-morrow at Windsor Castle."

As the precarious state of Lady Eldon's health in the autumn of 1830 prevented the accustomed visit to Dorsetshire, Lord Eldon remained with her in town, continuing to take a lively interest in the stirring events of the time. He received morning visits from a few of his friends, and amused himself with writing a good deal to his grandson and his brother.

Lord Eldon to Lord Encombe. — (Extract.)

"23rd August 1830.

"The Frenchmen are making, what can't long exist, a Republican Government, with a King at the head of it. They will soon find that such things can't co-exist, and revolution has not yet done its work in that country, I persuade myself. I fear that to a certain extent it will do work here."

Lord Eldon to Lord Encombe. — (Extract.)

(Received Sept. 2d, 1830.)

"Calcraft called upon me yesterday. He told me that Polignac had been in progress through some part of France with the Ex-King, and being in a fright lest he should be seized, though one of that party, he quitted it, and that mistake led to his being laid hold of. He told me also that Marmont, who has been in London, has declared that he had had no reason to suppose that there was to be any such mischief as happened in France, till the morning on which it happened, and he was in this state of ignorance though the person who was to command the military in Paris. That a Ministry should think of measures so indefensible, and preparing no means calculated to carry them into execution, is one of the most astonishing things that ever happened. This French business has all possible bad effects here. It poisons the minds of multitudes among the different orders in the country and town."

Lord Eldon to Lord Encombe. — (Extracts.)

(Received Sept. 8th, 1830.)

"People here, as far as I can learn from the very, very few whom I see, are in a state of consternation as to the events now taking place in Europe.

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"Matters appear to me to be in a state far from settlement in France. In Spain, revolution, civil war, is begun. In Portugal, it is said, it is not likely to be avoided. In the Italian States there is a portentous grumbling. In Germany, in many parts of it, a muttering. In Belgium there is what I call positive revolution: for when the subjects arm, and tell their Sovereign what laws he *shall* give them, in truth, they depose him. The monied folks here are in consternation — the funds falling."

Lord Eldon to Lord Stowell. — (Extract.)

(Michaelmas day, 1830.)

"I hear the condescensions of the K. are beginning to make him unpopular. In that station, such familiarity must produce the destruction of respect. If the people don't continue to think a King somewhat more than a man, they will soon find out that he is not an object of that high respect, which is absolutely necessary to the utility of his character.

"That varlet Talleyrand is here. I am told that he is a very singular figure. The people stare at him — and speak evil of him — but not more, or so bad, as he deserves."

Lord Eldon to Lord Stowell.

"Dear Brother, "Monday, October 11th, 1830.

"Like you, I am influenced by the effect of the habit of scribbling: for, in truth, no matter occurs to me, that would lead me to write for the sake of stating it. I see nobody — I seldom, very seldom, hardly ever, stir out, except to bear Lady Eldon company in the coach when she goes out. I don't believe that since you have been absent, I have taken a walk half a dozen times, and I don't recollect to have conversed in those few walks with a single person, not meeting any I knew. Very few, some who are accidentally in town for a day or two, call upon me. I have lived, therefore, in solitude, and I fear my letters could give you no amusement, though I trust as marks of my most hearty affection, you kindly receive them. Of foreign news, I know only what I read, and what therefore you must read, in print, as well as myself. I hope that your health will have received material improvement from country air. What is the latest day when you come to town?—nobody shall learn it from me. Report insists that a negociation is going on, between Ministers and Palmerston and Co. I incline to believe it: I hear that it is also reported, that a pledge has been given, that there shall be a partial parliamentary Reform, and some kind of a parliamentary measure about tithes. I have heard also that there is likely to be a reduction in the Civil List. This may be all true, or there may be no truth in it. I incline to believe that important parts of it are true.

"I would willingly hope that I am not too sanguine, when I say that I think Lady Eldon's health is somewhat improved. She sends her love to you. The noise about my ears is very uncomfortable,—the sensation, that of boiling water on each side of me,—and this is always a-going.

"Ever, affectionately yours,

"ELDON."

The rumour that any pledge had been given or any expectation held out, by the Government, of any step toward parliamentary reform, was utterly unfounded. But there seems to have been very good ground for the belief, intimated in the foregoing letter, that Lord Palmerston had become impressed with the necessity of a change in the representation: for it was at that time understood among his friends, that he would not entertain the proposal which this letter mentions as having been made to him for a junction with the then Ministers, unless their Cabinet were to include some members of that party which was avowedly favourable to Reform. Now it is obvious that the aid of Lord Palmerston's great talents in debate, and long experience in office, must have been highly desirable to Ministers, and especially at this anxious crisis of political party; yet did they forego that important advantage in their very hour of need, rather than swerve from their fixed opinions on the momentous subject of the constitution of Parliament. There seems therefore to have been as little foundation for the charge against the Cabinet of a disposition to truckle on the Reform question, as for the vulgar imputation upon Lord Palmerston, of having been first won over to the cause of Reform by the offer of the Foreign Secretaryship in the subsequent Ministry of Earl Grey.

The Session of Parliament was opened on the 2nd of November 1830. All things continued unpropitious to the Government: — the disturbed state of the continental nations, particularly France — the consequent excitement among the middle classes in England, especially in the towns — and the extensive destruction of property by incendiaries in the rural districts. In this state of circumstances, when the King's Civil List was submitted to the House of Commons on the 15th of November, the Government were defeated by a majority composed of the co-operating, though not expressly confederated, forces, of the Whigs and of the extreme Tories. This reverse, at the opening of a new Parliament and of a new reign, decided the Ministers at once to give in their resignations: which were publicly announced on the following day.

Earl Grey was the person authorised to form the new administration: and he endeavoured to strengthen it from all quarters. Of the old Tory section, the Duke of Richmond alone consented to join his Cabinet: the other leading members of the Anti-Catholic party declined to profit by the victory which they had assisted to obtain. The Cabinet offices therefore were distributed as follows:—

Earl Grey, First Lord of the Treasury: Mr. Brougham, then created Lord Brougham and Vaux, Lord Chancellor: Lord Althorp, Chancellor of the Exchequer, leading the House of Commons: Lords Melbourne, Palmerston, and Goderich, Secretaries respectively for the Home, the Foreign, and the Colonial Departments: Lord Lansdowne, President of the Council: Lord Durham, Privy Seal: Sir James Graham, First Lord of the Admiralty: Mr. C. Grant, President of the Board of Control: Lord Auckland, President of the Board of Trade: Lord Holland, Chancellor of the Duchy of Lancaster: The Duke of Richmond, Postmaster-General. Lord Carlisle, had a seat in the Cabinet without office: Lord Stanley was Secretary for Ireland, and Lord John Russell, Paymaster of the Forces, without seats in the Cabinet.

What part Mr. Huskisson would have taken in the movements of the Session and of the Ministry, can be matter only of conjecture: a fatal accident from a train of carriages upon the Manchester and Liverpool Railway having, in the preceding September, deprived his country of that sound and sagacious statesman.

CHAPTER LIV.

1830, 1831.

HOUSE OF LORDS: APPOINTMENT OF MAGISTRATES: DISTRESS OF THE COUNTRY. — FIRST REFORM BILL: LETTERS OF LORD ELDON TO LADY F. J. BANKES AND TO LORD STOWELL. — PITT CLUB. — VAUXHALL SCHOOL: LETTER FROM PRINCE GEORGE OF CUMBERLAND TO LORD ELDON. — NEW PARLIAMENT: SCOTCH DIVORCES. — DEATH OF LADY ELDON: LETTERS OF LORD ELDON TO LORD STOWELL, OF THE DUKE OF CUMBERLAND TO LORD ENCOMBE, AND OF THE BISHOP OF BRISTOL TO LORD ELDON: CONSECRATION OF BURIAL GROUND AT KINGSTON BY THE BISHOP. — LORD ELDON'S RETURN TO PUBLIC BUSINESS: CHANCELLOR'S ABSENCE FROM THE HOUSE OF LORDS. — SECOND REFORM BILL: LETTERS FROM LORD ELDON TO LORD STOWELL. — VISIT OF LORD ELDON TO THE BURIAL PLACE OF HIS WIFE: LETTERS FROM HIM TO LORD STOWELL. — CORONATION OF WILLIAM IV. — APPROACHING MARRIAGE OF LORD ENCOMBE. — PRODUCTION OF OPINIONS OF LAW OFFICERS. — BANKRUPTCY COURT BILL: LETTER FROM LORD ELDON TO LORD BROUGHAM UPON THE PATRONAGE OF THE GREAT SEAL. — PETITIONS TO THE HOUSE OF LORDS ON THE REFORM BILL. — CHANCELLOR'S ABSENCES. — LETTERS FROM LORD ELDON TO LORD FEVERSHAM AND LORD ENCOMBE: MARRIAGE OF LORD ENCOMBE. — DEBATES ON THE REFORM BILL: LETTERS TO LORD STOWELL: REJECTION OF THE BILL: LETTERS OF LORD ELDON TO LADY F. J. BANKES AND LORD STOWELL. — DISTURBANCES IN DORSETSHIRE: ILL HEALTH AND UNEASY FEELINGS OF LORD ELDON: THREATENED ATTACK ON ENCOMBE: LETTERS TO LORD STOWELL.

Lord Brougham, on the 29th of November 1830, a few days after his accession to the Great Seal, suggested in the House of Lords that the Lords Lieutenants of counties would do well to recommend some additional Magistrates for the Commission of the Peace: in default whereof he must himself, he said, make some such additions.

Lord Eldon observed that the Chancellor had clearly the right to determine who should and who should not be justices of the peace. He had himself been greatly indebted to the Lords Lieutenants of counties for their recommendations to him of proper persons for the magistracy: since a Chancellor did not usually possess, without such assistance, that knowledge of individuals which was necessary to a due exercise of his discretionary powers. He had taken care, however, that no Lord Lieutenant should strike out from the Commission any magistrate once in it. The only case indeed in which any such attempt had been made, if he recollected rightly, was when the late Bishop Barrington had sought to strike out an individual: and against *that* he had interfered, because he thought that none but the Chancellor ought to have this power.

On the 9th of December, Lord Eldon, supported a motion of Lord Wynford for a Committee on the Distress of the Country. The Earl of Radnor having pronounced a sweeping condemnation of the course pursued by the Governments of this country for the fifty years preceding,

Lord Eldon begged to say it was among the greatest of his consolations in a retrospect of his political life, that he had always maintained principles the reverse of the Noble Earl's.

Both Houses, having adjourned before Christmas, re-assembled in February. — Then approached that remarkable period of our history, when the greatest revolution which it records was stirred up and carried through, not by a mob or a soldiery, but by the constituted guardians of the State, the Ministers of the Crown itself; a revolution too, not aiming at the mere change of a despot or even of a dynasty, but dissolving the entire frame of the British Constitution.

The Catholic Emancipation had riven the Conservative body asunder: and through that chasm, the Reform Bill forced its way. It was on the 1st of March that Lord John Russell propounded the original scheme of it to the House of Commons. The project appeared, to most of his hearers on that night, too extravagant to have been intended seriously; and it was a pretty general opinion in the House, that the Whigs, having little hope of retaining office themselves, had started this invention with a view of so unsettling the popular mind as to make the Government untenable by any other Ministers. But when, on the following day, the public learned through the newspapers what it was that the King's servants were willing to do, and the King to sanction, — it became instantly obvious that nothing was too excessive for the appetite of the time. The whole country took fire at once. The working people expected that they were to change places with their employers. The middle classes believed that by breaking down the parliamentary influence of the Peers, they should get the governing power of the State into their own hands. And the Ministers, the contrivers of the design, persuaded themselves that the people, out of sheer gratitude, would make the rule of the Whigs perpetual. If, to all these interested hopes, we add the jealousy of the vulgar at all privileges not shared by themselves, — the resentment of the majority of the nation at the disregard of their sentiments respecting the Roman Catholic Bill — and the superficial notion that the direct representation of numbers is the principle of the elective franchise, — we shall have a tolerably correct conception of the motives of a revolution which has come already to be scouted by all classes of the State, — which, while it has trebled the corruption of the electors, has debased the tone and character of the House of Commons, — which, by shutting the doors of Parliament against the variety of interests and intelligences formerly returned through the close boroughs irrespectively of local connection, has resolved all other objects into a fierce engrossing struggle between the only two forces now left in the representation, the land and the towns, — which has narrowed the Sovereign's choice of the public servants in the Parliamentary offices of State, to the very small circle of the persons having seats at their own command, — which has wasted weeks and months of each Session in harangues delivered for no other purpose than to show the mob-constituencies that their Members are astir, — which has choked the progress of all practical business, and left still unsolved, after twelve years of trial, the great problem propounded by the Duke of Wellington in the House of Peers, " But, my Lords, how is the King's " Government to be carried on ? "

Lord Eldon to Lady F. J. Bankes.—(Extract.)

"3d March, 1831.

" There is no describing the amazement this plan of reform, which, before this time you will have read in your paper, has occasioned. There are divers opinions, whether it will or not pass the Commons. Generally it is thought that it cannot; — but what the result of the operation of fear of the consequences that will follow, in the minds of revolutionary men, if it does not pass, and of fear, in the minds of sober-minded men, if it does pass, there is no saying."

Lord Eldon to Lady F. J. Bankes. — (Extract.)

"Thursday morning (10th March 1831).

"The system of threatening persons, who don't vote for Reform, is carried to a shocking length. Whether the members of the Legislature have nerves to withstand it, is very doubtful."

The first reading was permitted to pass without a division; the second was carried by a majority of one. The struggle was then suspended for a short time, by the intervention of the Easter holidays. During this interval, Lord Eldon addressed to Lord Stowell the two letters, of which extracts follow: —

"Dear Brother, (April 1831.)

"I shall be glad if I am able, by my notes, to give you either information which may amuse you, or acquaint you with what you cannot find in your newspapers. At present, however, that is impossible; for, though Parliament begins to sit again next week, and, to save the country, the present week ought to be spent in making arrangements to defeat the mischievous projects now on foot, every person, whose counsels and cooperations would be of use for that most pressing and desirable object, are gone out of town to amuse themselves during the Easter holidays, with as little concern about public affairs as if we lived in the happiest moments that old England ever knew.

"All will be lost by the confidence, with which people act, and with which they persuade themselves that all will be safe. Our friend Lord Sidmouth, on the day in which the second reading of the bill was carried, spoke to me of the majority, by which it would undoubtedly be lost and negatived. And, now, the few, very few individuals here, whom I see, speak of the rejection of the bill, as if it was certainly to be rejected, though no two persons agree as to what shall be the course of measures by which its rejection can be accomplished. The folly, with which people act, is inconceivably provoking.

"The members for counties will, some, keep silence — many, vote against rejecting the Reform — they are afraid of losing their seats — they have not the sense to see, that, if the measure is carried, they must lose their consequence, their rank, and, most assuredly, their property.

"You will have observed that the Minister, who says that he will stand or fall by his measure, — that he will brave consequences, — has gone the length of stating that the connection between England and Ireland may be preserved and be as equally useful to both, if there are different Church establishments, as if there were the same Church establishments, in the two islands — in one Protestant, in the other Roman Catholic.

"And yet all the petitioners, or many of them, whose petitions I presented against the Catholic Relief Bill, are petitioners for the Reform Bill; for, say they, a House of Commons, which could vote for that Emancipation Bill, cannot be such a House of Commons as ought any longer to exist. Such is the folly and insanity, with which people are acting.

"Yours ever most affectionately,
"ELDON."

Lord Eldon to Lord Stowell. — (Extract.)

(April 1831.)

"You will perceive that at the Lord Mayor's Easter Monday dinner, all the Ministers, — one after another, — declared the K.'s entire confidence in them, and determination to support them. This was all perfectly unconstitutional, and there are here some persons, who do not believe one word of what they said. I cannot say that I am altogether so incredulous."

When Parliament re-assembled after the Easter recess, the contests on the Reform Bill were resumed with unabated violence: and, parties in the House of Commons being almost equally divided, the Ministers, on the 22nd of April, deemed it necessary that his Majesty should come in person to Parliament and announce a dissolution.

The clamour of the multitude was now loud and fierce against all who were known to be the opponents of the Ministerial scheme. Lord Eldon, however, did not shrink from the avowal of his sentiments. He attended the anniversary of the Pitt Club in May, and made a speech there, of which the following is an extract:—

> " The aristocracy once destroyed, the best supporters of " the lower classes would be swept away. In using the term " lower classes, he meant nothing offensive. How could he " do so? He himself had been one of the lower classes. He " gloried in the fact, and it was noble and delightful to know " that the humblest in the realm might, by a life of industry, " propriety, and good moral and religious conduct, rise to eminence. All could not become eminent in public life,—that " was impossible;—but every man might arrive at honour, " independence, and competence."

" It was," says the present Earl, " the custom of Mr. Francis, the founder of the Eldon School at Vauxhall *, to have an annual examination of the scholars on Lord Eldon's birthday, the 4th of June, and afterwards to entertain the visitors with a collation. In 1831, Lord Eldon was present, and it being desired that his health should be drunk, the Archbishop of Canterbury, who had examined the boys, requested Prince George of Cumberland to give the toast. The Prince, who had but just completed his twelfth year, and who had excused himself from partaking in some boat races at Windsor in order that he might come to the Eldon School, immediately complied in the most obliging manner, and spoke, in the happiest

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* See Chap. LII.

terms, of Lord Eldon as a pattern that had been constantly held up to him, and that he would always endeavour to imitate. I was present, and particularly remember his naming my grandfather, accompanied with the words, 'whom I love and honour as my own father.' Lord Eldon afterwards wrote to the Prince to thank him, and at the same time to offer his congratulations on the birthday of the Duke of Cumberland, June 5th. The Prince sent this answer:" —

From Prince George of Cumberland, now Crown Prince of Hanover, to Lord Eldon.

"My Dear Lord, "Kew, June 6th, 1831.

"Pray accept my best thanks for your kind letter of congratulations on Papa's birthday. I sincerely hope that God may grant him a long life, and that I may be permitted to enjoy many happy years with both my parents. I assure you that the wishes, which I expressed on proposing your health at the Eldon School, came from my heart, and with God's help I shall certainly follow them up in life. I hope that I may find a friend through life, such as you have been and are to Papa.

"Papa and Mama send their best regards to you, and Lady Eldon; the former hopes to meet you at dinner to-day, the latter is happy that Lady Eldon so kindly accepted of the flowers. I remain,

"My dear Lord,
"Your affectionate friend,
"GEORGE."

On the 14th of June, the new Parliament met, and the Session was opened on the 21st by his Majesty in person. On the 24th, Lord Eldon introduced a bill, to settle the law on the subject of divorces granted in Scotland, for dissolution of marriages celebrated in

England. It was forthwith read a first time. But it was fated to proceed no further: for, on the 28th of June, the long illness under which Lady Eldon had been suffering put an end to her life, and overwhelmed Lord Eldon with an affliction from which he never wholly recovered. The following is the letter, written by him to his brother on that sorrowful day:—

Lord Eldon to Lord Stowell.

"My ever dear Brother,

"Your letter reaches me in a flood of tears and a sort of burst of agonizing feeling. I submit as well as I can—I fear not as well as I ought—to God's will. But I will do my utmost to acquire the means of doing my duty. I am quite sure that our meeting as yet would overpower me; and I fear also, you,—that you are the person who is the object of all my affections and anxieties along with my offspring.

"When I can have the strength and fortitude in person to say to you 'God Almighty bless you,'—as I now say it in correspondence,—I shall in person assure [you], that I am, as I have [been] through life, and [have] had so much reason to be, [your] Ever affectionate,

"ELDON."

Little as Lady Eldon had been personally known among the friends of her Lord, the feeling for his loss was general and fervent. The Duke of Cumberland was among the earliest to express his sympathy. Passing Hamilton Place a few hours after her decease, and, seeing the window-shutters closed, he left a kind message at the door, and wrote on the same day to Lord Encombe, desiring that his condolence might be expressed to Lord Eldon, and adding,

"But, for God's sake, use your endeavours to support him in his present affliction, as *he* is of the greatest consequence for the welfare of this country. I can imagine his misery and woe at this moment; but the same Almighty, who has caused this misery, will give him, I trust, strength to support it."

"Immediately upon Lady Eldon's death," says the present Earl, "Lord Eldon formed the wish that a family vault should be prepared at Kingston, in his parish of Corfe Castle, Dorset, where he might, as he expressed it in a letter to his steward Mr. Willis, 'repose with her till the hour of death is followed by the day of judgment.' Instead of occupying a part of the existing chapel-yard to the partial exclusion of the other parishioners, he preferred applying land of his own to that purpose. In the mean time a temporary vault was made for the remains of Lady Eldon in the chapel near the Communion Table: there they were deposited on Saturday, July 9th, 1831, my uncle W. H. J. Scott, Mr. Edward Bankes, Mr. W. V. Surtees, myself, and others, attending as mourners."

Having applied to the Bishop of Bristol, whose diocese then comprehended Dorsetshire, to consecrate the new ground, Lord Eldon received from him this kind and pious answer: —

"My dear Lord, "Great George Street, July 9th, 1831.

"I read, with painful reflections and sympathy, your Lordship's affecting letter, and am anxious to offer any suggestion which the moment can dictate, of consolatory consideration. A great deprivation you have indeed sustained; but who, my dear Lord, is so supported by the strong convictions of an enlarged mind to bow to, and to adore, the dispensations of Providence? Who is more faithfully convinced of the mercies of a Redeemer and of the inspiration of those writings in which his proceedings are disclosed? I shall most readily undertake to consecrate the ground at the time that may be most grateful to your Lordship's feelings. I will consider whether it can be effected during my present visit in Dorsetshire, so as not to prevent my return to London by the 2d of August; or I will at any future time visit your Lordship for the express purpose; I shall be happy to communicate again with your Lordship in a few days, as I do not leave London till Saturday. I remain,

"My dear Lord,
"Most sincerely and faithfully yours,
"R. Bristol."

The consecration took place on Friday the 22d of the same month: and the following is the account of it, which Lord Encombe received a few days afterwards from the Rev. Frederick Choppin, curate of Corfe Castle:

"The Bishop arrived on the spot about seven. After hearing prayer, his Lordship proceeded to the burial ground, (which was perambulated)—and signed and sealed the deed under a marquee erected in the centre. Then the sentence, and the prayer of consecration were read, and three verses sung—and the Bishop gave his blessing. Returning from the ground, the Bishop looked at the people, who had ranged themselves quietly and respectfully round the railing and the walls of the churchyard, and asked me whether he should say a few words to them of Lord Eldon, whom he supposed to have been often at church there. I write them down from memory:"—

"My Friends,

"You have, this evening, witnessed the consecration of a piece of ground, destined to be the burial place of a great and good man, who has lived among you,—who has for many years supported the laws and liberties of your country with firm and undeviating integrity. Having deposited here the mortal remains of the companion of his life, the beloved object of his constant affection and attention, he would that here also his own ashes should repose. Long may it be yet before he shall come to lie here—but, in the mean time, you will hold sacred a spot which he has chosen to be the place of his interment: and many will, even now, come to look at the future grave of Lord Eldon. For you who have so often seen him, coming to worship God with you in his village church, I have only to bid you, Remember this,—and lead such good and holy lives yourselves, as may (through His grace) fit and prepare you for the hour of death and the day of judgment; and so, good bye to you all!"

Lord Eldon, under this heavy blow, abandoned himself to no unmanly dejection, but sought the earliest possible respite from private sorrow in the performance of his public duties. On the 19th of July, only three weeks after his loss, he gave the benefit of his experience to the House of Lords upon a question relating to the removal of a magistrate from the Commission of the Peace. Again, on the 23d of August, with reference to an apology made by Lord Chancellor Brougham for his absence from the House of Lords, on the plea of evening sittings in the Court of Chancery to clear the arrears there,

> Lord Eldon stated the rule as to the Chancellor's duty to the House of Lords. He had no doubt that Lord Brougham had been very usefully employed; but he must say, that according to the standing orders of their Lordships' House, the paramount duty of the Lord Chancellor was to be in his place there during the sittings of their Lordships; and there were many precedents of refusal to permit a Chancellor's attendance elsewhere during those sittings.

A new Reform Bill had been introduced by Ministers into the House of Commons on the 24th of June, and was proceeding there amidst the same excitement which had marked the progress of the former measure.

Extracts of three Letters from Lord Eldon to Lord Stowell.

" August 4th, 1831.

" The firmness of the Speaker*, in prevailing upon the House, in two instances, to reject petitions praying the House forthwith to decide in favour of the Reform Bill (the second being from the Birmingham Unions), and to lose no more time in debating, produced, at the great meeting of the Livery of London, a vote in the negative against the Livery pressing any such petitions,—together with its being likely that petitions would have been presented by other bodies, praying the House to be firm in the discharge of their duties."

" August 5th, 1831.)

"The work of mischief is going on, the House of Commons disfranchising and enfranching every night, but, in a manner abominable; majorities, by votes without a word said, deciding against arguments, which they neither can nor attempt to answer.

"Mr. Hobhouse, on Wednesday night, held a language respecting the House of Lords, *if they dared* to oppose the Bill, which, I think, has confirmed that House in determination, at all risks to its members, to resist, and throw out the Bill. It has awakened the members of the House of Lords to a conviction, that their existence depends upon their firmness."

(Post mark, August 16th, 1831.

"The Ministers are themselves proposing to destroy, by many alterations, that which was to be '*the Bill, the whole Bill, and nothing but the Bill;*' and it is now, the Bill, not the whole Bill, and *almost any thing but the Bill,* — somewhat better in some points and worse in others."

Toward the close of this month of August, Lord Eldon yielded to the strong impulse of indulging his grief in a visit to the burial place of his wife. He left London on Saturday the 27th, slept at Southampton, and reached Encombe on the Sunday. Early on the Monday morning he wrote thus to his brother: —

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* The present Viscount Canterbury.

Lord Eldon to Lord Stowell.

"Encombe, Monday,
(29th August, 1831.)

"Dear Brother,

"I arrived here last night. My first approach to this place, so often the scene of great happiness in former days, has, at present, most deeply and painfully affected me. I shall have many trials during my short stay here, which I know not how to bear. I have, however, designedly exposed myself to this present state of suffering, because, some time or other, if I live, I must meet what I have at present exposed myself to..

"I pray God, daily and incessantly, for all that can contribute to your health, comfort, and happiness, and am with all possible affection,

"Yours, dear Brother,
"ELDON."

At a later hour of the same day, he again endeavoured to relieve his feelings by communicating with his brother:

Lord Eldon to Lord Stowell.

"My dearest Brother,

"I write a short line, being unable to do more. I have this morning visited the spot where the remains of my ever dear departed are deposited and where, when God pleases to summon me hence, I shall repose till the Day of Judgment. I have been nervous, and in some degree hysterical, through the day, but am better this evening. I have been constantly reproaching myself for not having attended the funeral, and my mind has been ever at work in representing to me the spot, which I have seen to-day, and the seeing of which, however painful to memory, is less so than contemplation before having seen it. I am now satisfied from vision, that all has been respectfully done, that the sad occasion would admit of. I am sorry to write you a melancholy letter,—but I cannot help it. May God's best blessings ever attend you.

"Yours, with all possible affection,

"ELDON."

On the 8th of September 1831, the Coronation of King William IV. and his Queen took place in London. "That ceremonial," says the present Earl, "afforded to the late Queen of Hanover, then Duchess of Cumberland, an opportunity of testifying her regard for Lord Eldon, by appointing me to carry her coronet on its cushion of purple velvet, in the procession to Westminster Abbey. The Royal Duchesses wore their coronets on returning, and it then became the duty of those who had carried them, to bring home the books of the Coronation service on the same cushions. Her Royal Highness, on arriving again at her residence in St. James's Palace, desired me to retain her cushion, in remembrance of the day, and added, with a smile of meaning, that Lady Encombe might find it useful."

This was an allusion to a marriage then shortly about to take place between Lord Encombe and the Hon. Louisa Duncombe, daughter of the late, and sister of the present, Lord Feversham. It was an union in every respect pleasing to Lord Eldon. There was nothing unsuitable in the age, the rank, the fortune, of the contracting parties — upon politics, the great subject of Lord Eldon's thoughts and conversation, the opinions of the two families were almost, if not quite, identical: and among the many attractions, mental and personal, which distinguished the object of Lord Encombe's choice, her gentleness of manner was peculiarly acceptable to a grandsire who had completed his eightieth year.

"I have no recollection," says the present Earl, "that before this engagement Lord Eldon ever expressed to me any wish that I should marry, except on one occasion, when, during Lady Eldon's illness in October 1829, I was talking to him upon a favourite topic, that of planting, and happened to mention that the gardener was about to sow some remarkably large walnuts from a neighbouring farm of Mr. Calcraft's. Lord Eldon, without the slightest connection with the subject that I could perceive, yet in a tone as of reply, said, 'Get a wife: — whatever her recommendations may be, at all events let her be a *good* one.' I merely smiled and called back his attention to the subject of the trees. Some years afterwards, I was mentioning these circumstances to Mr. Edward Bankes as furnishing a remarkable and an unusual instance of absence of mind in Lord Eldon, when he suggested, justly I believe, though my thoughts were originally too full of my planting to perceive it, that this was no case of absence of mind, but a hidden chain of ideas. My walnuts had reminded my grandfather of the couplet,

> 'A spaniel, a wife, and a walnut-tree,
> The more you beat them the better they be.'"

Lord Eldon returned to London from Encombe on the 10th of September, and devoted himself assiduously to the business of the House of Lords. On the 14th, Lord Grey, adverting to a motion which had been made for the production of an opinion given to the Government by the King's Advocate, acquainted the House that he had obtained the consent of that officer to lay it on the table; but begged them to remark that this was a disclosure, to which Government acceded under particular circumstances, and which was not to be regarded as a precedent; the rule being, that the communications between the Crown and its Law Officers are to be deemed strictly confidential.

Lord Eldon rose to confirm this statement of the rule. He laid it down as unquestionable that the opinions of the Law Officers of the Crown are altogether confidential between them and the existing Administration: and referred to the unauthorised disclosure of an opinion given by Sir Fletcher Norton, on which occasion that learned person declared that he would never give another opinion in writing.

Lord Brougham's Bankruptcy Court Bill was now in progress through the House of Lords. Lord Eldon's opinion of it appears to have been intimated by him to the Chancellor, in a letter on the subject of the compensation to be assigned to Mr. Thurlow as holder of the office for the execution of the Statutes of Bankrupts, which office the reforms of Lord Brougham were about to abolish. The following passages are extracts from a draft of that letter found among Lord Eldon's papers: its precise date does not appear.

Lord Eldon to the Lord Chancellor Brougham. — (Extract.)

"Dear Lord Chancellor,

"Mr. Thurlow has called upon me, probably considering me the only surviving friend of Lord Chancellor Thurlow, to whom Mr. Thurlow, in common with all, who have attended to the history of persons in our profession during fifty years, know that I have been indebted for very much that is valuable in the course of that period."

(The letter, after reserving to Mr. Thurlow the ground of *right*, goes on thus:)

" You are probably aware also, without my mentioning it, that my humble opinion is, that the proposed change in the administration of law in matters of bankruptcy is a change that ought not to be adopted. And it seems respectful to you here to mention, that, if it becomes necessary, I shall be obliged, as at present advised, however reluctantly, to express that such is my opinion. I am aware that that opinion will now have little weight.

" The grants, that appear to have been made from time to time of this office, bear date at different periods, from the 14th, James I., — grants,-by different Sovereigns, to the families of Chancellors, at different periods.

" The grant under which Mr. Thurlow claims, bears date in November, 1792, the immediately antecedent grant being made to one of Lord Cowper's family, and one of Lord Hardwicke's.

" It will be found, I believe, to be a fact, that before the time of Lord Loughborough, there was no retiring pension for a Chancellor. Lord Thurlow had no pension. Loughborough should have provided a better retiring pension for a Chancellor, unless, like Lord Eldon, a Chancellor happened to hold the office insufferably long.

" Lord Camden was very fortunate—being Chancellor not I think four years complete. His family was provided for by a grant of a Tellership of the Exchequer, when it was a most extremely valuable office. After a considerably long enjoyment of it as such, he* very handsomely gave up the excess of the old profits above the modern profits of the present day; — but before that took place, he had held it, at the original great value, I think, for many years.

" There seems to have been an understanding, that whenever Lord Thurlow quitted the Chancellorship, he should have a Tellership with the then usual benefits of it, great and ample as they were; and I think I remember Mr. Fox saying in the House of Commons, that he ought to have that, if he would declare that he had bargained for it. Such a declaration Thurlow refused to make. Whatever the fact was, he could not avow that he had made a bargain. He had no pension: and as the peerage and title was, by a re-grant, to be extended to his brother's family, he granted the office of bankruptcy, as his predecessors had done, to two of his family; of whom Mr. Thurlow is the survivor, and now in possession of the office."

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* Not Lord Chancellor Camden, but his son.

(The draft, which is a very long one, then proceeds to state the circumstances of Lord Thurlow's surviving family; and, after quoting various precedents of liberal compensation upon abolitions of offices, and recommending the principle of such compensations upon public grounds, it concludes with these words:)

"Again let me ask your indulgence, if I am misled by a grateful recollection of the first Lord Thurlow's kindness to me."

On the 20th of September, when the bill was about to be re-committed,

Lord Eldon said he thought it necessary, that before a change so extensive and violent were made, the subject should be referred to a Committee. His opinion in some degree coincided with Lord Brougham's in respect to the patronage of the Great Seal. The services of Chancellors could not be adequately compensated by mere wages, and it was not fit that, after they quitted the Woolsack, they should be left in a state of destitution. Upon this point, his own opinion was confirmed by the opinions of Lord Somers and Mr. Burke. He insisted on the importance of filling up the Commissionerships which this bill created, from the *Equity* Bar. The chief discussions in bankruptcy turned upon matters of Equity: and those, whose whole professional life had been directed to the consideration of such subjects, were the most fitted to decide upon them.

If Lord Eldon had lived to the present day, he would probably have acknowledged the great benefit conferred on the public by this bill of Lord Brougham, which was enacted as the 1st and 2nd W. 4. c. 56. Its two main principles, the commutation of the old lists of commissioners into fixed tribunals, and the appointment of Official Assignees, have so facilitated the despatch of business and the recovery of dividends, that hardly any desirable object is now unaffected in the administration of bankruptcy.

The second Reform Bill having passed the House of Commons, was read a first time in the House of Lords on the 22nd of September 1831, without debate, but with a studied solemnity, and in the presence of a great concourse of members of the House of Commons, who crowded the bar. This seems, from the following letter, to have been a premeditated piece of effect.

Lord Eldon to Lord Stowell.

"Thursday, (Sept. 22nd, 1831.)

"The Reform Bill passed the Commons at a late hour this morning — for it, 345, against it, 236 — majority 109.

"I presume we shall have it brought up with as much pomp and ceremony of attending members of the House of Commons as may be, *this* day, when the day proposed for the second reading in the House of Lords will be fixed. The majority in the House of Commons is, as nearly as possible, such as from the beginning has been expected."

The Marquis of Westminster (formerly Lord Grosvenor), enquired, on the 26th of September, in presenting a petition in favour of the Reform Bill, why their Lordships should interfere with that which most peculiarly belonged to the other House of Parliament.

Lord Eldon said, that so far from thinking that the Peers of England had no interest in this question, he was ready to maintain that the country would have no constitution left to it, if the Peers of England had no interest in such a question as this.—The proposition that the Peers of England had no interest in this question, was the most absurd one that had ever been uttered or propounded, there or elsewhere. He hoped and believed, that when that question came to be discussed by their Lordships, they would do their duty fearlessly and manfully, and at the hazard of all the consequences. — He should be utterly ashamed of himself, if, at his time of life, he should give way to the imputation of being prevented by fear from doing his duty. — He would discharge his duty with regard to it, because he believed that in it were involved, not only their Lordships' interests, but the interests of the Throne.

A little later in the same day, on the third reading of the Plurality Bill,

Lord Eldon regretted that he had to call their Lordships' attention to the fact, that during the discussion of a measure so important, the Lord Chancellor was absent from the Woolsack, without the plea of indisposition, and contrary to the Standing Order.

The Plurality Bill having passed, and the Standing Order before mentioned having been read, on the motion of the Marquis of Londonderry,

Lord Eldon repeated the doctrine which he had stated on the 23d of August. In one instance, he said, a Chancellor had pleaded as a reason for his absence, that he had been sent for by the Sovereign; but the House voted that this was no sufficient reason, and that it was his paramount duty to be in attendance there.

On the following day, Lord Chancellor Brougham, upon a question formally put to him, defended his absence, on the ground that he had gone into the country to recruit his health, after very severe labour and then

Lord Eldon insisted on the necessity that Chancellor, when absent, even for justifiable cause, should give notice to the Deputy Speaker of that absence, and of the cause of it. When that absence was necessary, some one of the most eminent Judges of Westminster Hall should perform the duties of Speaker. He thought that after what had passed, this conversation should be suffered to drop: but he would not let the next Session pass, without submitting some provision against the inconvenience complained of.*

The 1st of October was the day fixed for Lord Encombe's marriage. Lord Eldon felt the deepest interest in this union; but after the affliction he had himself so lately sustained, he could not muster sufficient spirits to attend the ceremony in person, although it was solemnized in London. The two following are the notes addressed by him on the eve of the wedding day, to the bride's father and the bridegroom: —

Lord Eldon to Lord Feversham.

"My dear Lord, "Friday.

"Though probably Encombe will have explained to you the circumstances which cause my absence from the ceremony which is to take place to-morrow, I feel an extreme anxiety to assure you and Lady Feversham, that that absence is occasioned only by the fact that my mind is distressed beyond what I can represent, by a dissolution of that union between myself and the departed, which had existed for nearly sixty years, of the same nature as that union, which I trust and believe will produce happiness, and may it long, very long, produce it! to the parties who are to enter to-morrow upon the state of husband and wife. I confide in your kindness to accept, and to offer to Lady Feversham and the family, my apologies. I am, my dear Lord,

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* Lord Eldon does not appear to have ever executed this intention.

"Very faithfully, and with great regard and respect,

"Yours, ELDON."

Lord Eldon to Lord Encombe.

"Dear Encombe,

"The *fausta ac felicia* to you, and yours who is to be to-morrow! God bless you both.—My head aches much to-day: my heart rejoices on your account to-morrow. Yours most affectionately.—My love to the young Louisa.

"Ever affectionately yours,

"ELDON."

The marriage took place accordingly, to the great happiness of all parties; but its first fortnight was nearly disturbed by a very unromantic interruption. A call of the House had been moved by Mr. O'Connell, and postponed by him from day to day, that the pendency of it might keep members in town; and these postponements had been repeated so often, that Lord Encombe thought he might safely, on the completion of his marriage, leave town with his bride. After their departure, the pending call was given up by Mr. O'Connell and adopted by Lord Ebrington, on whose motion it was actually enforced on Monday the 10th, Lord Encombe being absent. In the common course of things, he would have been ordered into the custody of the Serjeant-at-Arms; but the House appears to have known and given credit for the cause of his absence, for when his name was called upon the roll of defaulters, there was a good-humoured laugh which seemed to say it would be too much to disquiet a honeymoon by an arrest,—and so, with a kind of general connivance, the name was allowed to pass.

The debate in the House of Lords, on the second reading of the Reform Bill, began on Monday the 3rd of October. Next morning Lord Eldon wrote this account of the discussion to his grandson:—

Lord Eldon to Lord Encombe.—(Extract.)

"My dear Encombe, (Oct. 4th, 1831.)

"Accept my kindest thanks for your letter this moment received. I repeat to you and I beg you will state, on my behalf, to the lady whom I have now the happiness to call my grand-daughter, my heart's best wishes for the felicity of both.

"I got to bed about a quarter before three, much fatigued, and oppressed beyond measure with the heat of the House, and my head is in a bad state this morning.

"My own conjecture is, that our debates will not terminate before Thursday evening. It may, however, be, that they will finish on Wednesday.

"Lord Grey spoke very well, but his speech, I thought, betrayed an opinion that he would be in a minority.

"Wharncliffe did very well, but made a sad mistake in moving, that the bill be 'rejected;' a word that seemed to many to be too strong as to a bill passed by the Commons, and a great deal of time was spent in getting the House to agree to change what he had moved into a motion 'that the bill be taken into consideration on that day six months.'

"Lord Mansfield spoke most ably and admirably against the bill.

"Lord Mulgrave *acted* his part tolerably.

* * * * * *

Then we all retired. My head is painful. I hate the sight of food. All seem to think the bill will be lost."

The adjourned debate on the Reform Bill continued on the 4th and 5th of October. A petition having been presented against it on the 5th, some observations were made, imputing a breach of the peace to an assembly then lately held by the Political Union of Birmingham. It was stated that an orator, in addressing that body, had recommended it to them, should the Reform Bill be rejected by the Lords, to refuse the payment of taxes: that he had called on those present, who would support this resolution, to hold up their hands: and that thereupon "a forest of "hands was held up, amidst an immense cheer."

Lord Chancellor Brougham declared, that all those hands might have been held up, and yet he could not say that there was any breach of the King's peace or any offence that the law knew how to punish.

Lord Eldon said he should be ashamed of himself if, after living so long in his profession, he did not now offer a few words. He fully admitted that a meeting was not answerable for the declarations of an individual; but if, by holding up their hands or in any other way, the meeting had endangered the peace of the country, he knew no reason for believing that they had not made themselves responsible to the laws. As a lawyer, he would ask the Chief Justice of the King's Bench (Lord Tenterden), and the late Chief Justice of the Common Pleas (Lord Wynford), whether, if those hands could be proved to have been held up in the manner described, every individual so responding were not as much answerable for the language used, as the man who had used it. "And I beg," said he, "to tell the Noble and Learned Lord, with the greatest respect, that his seat on the Woolsack will not be a seat which any one can maintain for six months, if the doctrines now circulated through the country, and placed every morning under the review of every one, are suffered to be promulgated any longer. That is my opinion; I alone am answerable for my opinions; and for this, I am prepared to answer, at all hazards."

Instantly the Lord Chancellor rose, with the view, as he said, to prevent Lord Tenterden from answering Lord Eldon's question. If the matter were indictable, Lord Tenterden, he observed, might be called upon to try it, and would therefore feel the impropriety of at present delivering any opinion respecting the law as applicable to the acts done.

In this view Lord Tenterden acquiesced.

The petition being disposed of, the House proceeded with the discussion on the second reading of the bill. The debate was again adjourned. Lord Eldon gives a short sketch of it in his letter of the next morning to his brother:—

"Dear Brother, (Postmark, Oct. 6th, 1831.)

"I got to bed last night about half past two—much fatigued and overcome with heat, &c.

"We had some excellent speakers—Lord Dudley and Lord Haddington quite surprised me. They spoke admirably against the bill.

"Lansdowne and Goderich spoke for it: in their speeches, however, rather contending for going into a Committee to amend and alter it, than for passing the bill in its present shape. From all I can judge upon such information as I have, the bill will be thrown out by a majority greater than I had, till yesterday, heard mentioned.

"As yet, none of the profession to which I belonged have spoken, and I suppose the House will have enough of us before we have finished. Some think the vote will take place on Friday, some on Saturday, and some on Monday; I can't conjecture on which. God bless you.

"I am very weak.

"Yours ever affectionately,
"ELDON."

On the evening of the 6th, before the adjourned debate,

Lord Eldon took the opportunity of a discussion upon a petition from Belfast against the bill, to urge the unfitness of proceeding with the consideration of the measure proposed for England, without a knowledge of what was intended to be done with Ireland and Scotland; observing upon the extensive effect which a change in the representation of one part of the empire must produce upon the rest.

The debate on the second reading was, however, continued, and again adjourned. Next morning he sent, as before, a short notice of the night's proceeding to his brother:—

"Dear Brother, "Friday (October 7th, 1831).

"We have survived one more fatiguing night, passed in hearing some heavy, some moderate, one most excellent speech, which surprised me, from Lord Carnarvon, and one, not very excellent, from Lord Plunkett, from whom I expected something better. In the course of the evening, I tendered myself to the House; but, Lord Carnarvon stating his just pretensions to be heard, as he was too ill to hope to speak at any other time, I was obliged to give way, and I was too ill to speak at a later period of the night.

"We adjourned to five o'clock this evening, and, in case, the debate does not finish to-night, we are to attempt to finish it to-morrow, Saturday, by meeting at one o'clock instead of five, and sitting till near twelve on to-morrow, Saturday, night; if we do not then finish, the debate, I think, must conclude on Monday. At present I have all the reason which, in such matters, we can have, to be confident that the bill will not pass. Making new Peers to pass it has been much talked of; but, unless our calculation of numbers is erroneous, and most grossly so, audacity itself could not venture to attempt a sufficient supply of new Peers.

"Yours most affectionately,

"ELDON."

The debate was resumed on the 7th, and Lord Eldon then spoke to the following effect:—

My Lords, if I did not feel it an incumbent duty on me, I can assure your Lordships I should have spared you, and not encountered the hazard and difficulty, which I feel in addressing you, in consequence of my age, and of that infirmity which has been occasioned in some degree by my constant attendance on this House. I well remember that on another question—and I would take this opportunity of declaring, before God and my country, that on that question—I mean the Roman Catholic question—I took no part which I did not feel it my duty to take both to God and my country—but I very well remember that, at the period when that measure was under discussion, I stated that it was probably the last opportunity of which I should ever avail myself of addressing your Lordships. I thought so at the time, and, considering that I was then advanced to fourscore years, I had scarcely any right to expect to have been able again to address your Lordships; but as the kind and indulgent providence of God has allowed me to continue in the enjoyment of a certain degree of health for a short period longer, I am able again to take my seat in this House. My Lords, I was taunted for appearing again before your Lordships, after the declaration I had made; but I felt myself called upon by a sense of duty which I could not resist,—from the moment when my Sovereign called me to a seat in this House as long as my strength permitted me,—to offer myself and my opinions to the suffrages and approbation, or to the dissent and reprobation, of my fellow-subjects.—Doctrines have now been laid down with respect to the law of this country and its institutions, which I never heard of before, although I have spent a long life in considering what the law of this country is, and some time in considering how it might be improved. Those considerations, my Lords, have satisfied me that alterations are not always improvements: but when I find it stated in the preamble of this bill, that it is *expedient* that all the acknowledged rights of property, that all the rights arising out of charters, that all the rights of close corporations and the rights of corporations which are not close, should be swept away,—though it does come recommended by the name of Reform, I find it impossible to give it my assent. I do not think this property can be taken away, and I never can consent to hear the principle of expediency put forward as the justification of a measure, which is not consistent with the principles of British law and of the British Constitution. I know, my Lords, and I am ready to agree that there is a popular notion with respect to the boroughs in this country, that they are not property but trusts. I say, my Lords, that they are *both* property *and* trusts. Those old-fashioned gentlemen, whose names will be held in lasting remembrance after the delirium of this day shall have passed away, I mean such men as my Lord Holt and my Lord Hale, what have they said with respect to those unpopular things called boroughs? My Lords, they said they were both a franchise and a right. Now let me ask your Lordships what is to be the consequence with respect to property of any species whatever?—for *there* is no property in the country which is not accompanied with *some* trust for its due application. Is it possible for any man to have the boldness to say that property is secure, when we are sweeping away near one hundred boroughs, and almost all the corporations in the country, because we have a notion that those who are connected with them have not executed their trust properly? Will you not hear the individuals against whom the allegation is made, as well as those who made it? Will you not hear the matter argued in your presence, and allow the right of calling witnesses, on whose evidence you may decide? This new doctrine, I repeat, affects every species of property which any man possesses in this country. I have heard in the course of the last two or three months, a good deal about close corporations. I will now say, that close corporations are hereditary rights, held by charter from the Crown; and they have as good a right to hold their charters under the Great Seal, as any of your Lordships have to your titles and your peerages.—I do not object to the courtesy of creating Peers on the occasion of the Coronation. I should, on the contrary, be happy to see individuals introduced to the House, if the members so created had not already voted for the bill in the other House, and then come here to vote for it again: and I should be still more happy to find that they did not vote at all on this question. But there is a rumour abroad, that the opinion of this House is to be, somehow or other, finally overruled. My Lords, I do not credit it. I do not believe that the Noble Earl, to whom I have been opposed throughout the whole course of my political life — honestly on my part, and honestly on his, because I know his opinions are as honest as mine, — I do not believe that that Minister whose name will be illustrious in future generations, whatever may be the fate of this bill, will ever taint his character by recommending a measure which means neither more nor less than what, if you pass this bill, will be done in due time — namely, to annihilate this House. With respect to the proposition of his Majesty's Ministers, or any object connected with it, I hope, before the Lords of this House strip off their robes, they will let their Sovereign know their sentiments. Now, my Lords, let us suppose for a moment that there are some corporations in which a few influential individuals elect the Members of Parliament. Has it ever been heard of in the history of this country, or will it ever be heard of in the history of this country, that the Lords of this House should take upon themselves, on a bill stating it to be expedient to do so and so, to destroy that Constitution which has been preserved from age to age, and which it has never been thought *expedient* to destroy, until this experiment was proposed,— that now you are about to sweep away all the corporations in the kingdom, because they are close and there may be abuses in them? My Lords, let us take any objectionable borough, any close corporation that can be named, and I will venture to say, that if your Lordships' House disfranchise one or other of them without calling in aid your legislative or judicial functions, without hearing what objections are to be made to it, and hearing its defence, such a proceeding goes further to abrogate a nation's privileges, and to limit those of your Lordships' House, than any other which I have ever known to be proposed to Parliament. My Lords, I now come to one of the many considerations, which have influenced me in the humble opinion which I have formed on this subject. I well remember, my Lords, (although it is a long time ago, I have a perfect recollection of it,) that I fought under the banners of no less a man than Mr. Fox in the House of Commons, and feebly supported him, against a proposition of this kind. I had the honour of so fighting under Mr. Fox against my own political friends. I was then what is now called a nomination-borough member; but I would not have sat one moment in that House if I had not been at liberty to act upon my own opinions. No man would have dared to ask me to sit in Parliament otherwise than upon that understanding. The Noble Earl was proceeding, in a very low tone of voice, to describe the mode in which the franchise had been originally acquired, and was endeavouring to show that it first sprang up in the agricultural districts, and that it was intimately, if not solely, connected with the land, when

The Earl of Oxford rose to express a regret that the Noble Earl confined his address to those immediately about him, so that he and others on the Ministerial side of the House could scarcely catch an occasional sentence of what he said.

(Cries of "Order, order!" "Lord Eldon is on his legs." Lord Rolle, the Marquis of Salisbury, and others, rose to order, and a considerable period elapsed before the Noble Earl could resume, after the Earl of Oxford had disclaimed all intention to interrupt, saying he only wished the Noble Earl to raise his voice so that he might be heard. The Earl of Eldon resuming, said:—)

A thousand other considerations, of enormous weight on my mind, might be added on such a momentous occasion, without travelling into the details of minor objections: but I am not disposed to reiterate what has been in many cases so ably argued, or fatigue the House. It is, I confess, my Lords, an all-engrossing subject: and the bill will be found, I fear from my soul, to go the length of introducing in its train, if passed, Universal Suffrage, Annual Parliaments, and Vote by Ballot. It will unhinge the whole frame of society as now constituted. Will you then, my Lords, consent to introduce into the Constitution a measure which is at war with the preservation of that Constitution, and which is more particularly remarkable for being altogether incompatible with the existence of a House of Lords. I, my Lords, have nearly run my race in this world, and must soon go to my Maker and my dread account. What I have said in this instance, in all sincerity, I have expressed out of my love to your Lordships; and in that sincerity I will solemnly assert my heartfelt belief that, with this bill in operation, the Monarchy cannot exist, and that it is totally incompatible with the existence of the British Constitution.

The next day produced, as usual, its missive from Lord Eldon to Lord Stowell:—

"Dear Brother, "Saturday (Oct. 8th, 1831).

"The debate began last night, continued till between six and seven this morning, and I got to my bed about half-past seven, and left it about noon to-day, fatigued beyond all belief, bodily. You will see from the papers that our division was against the second reading of the bill. The fate of the bill, therefore, is decided. Those for the bill were 158; against it 199, leaving a majority of votes against the bill of 41; which, I have reason to believe, exceeded by one-half of what Ministers thought it would. I voted for you, by your proxy, against the bill.

Those who spoke last night were, 1. Wynford; 2. Eldon; 3. the Chancellor; 4. Lyndhurst; 5. Tenterden; 6. the Archbishop; 7. Duke of Sussex; 8. Duke of Gloucester; 9. Marquis of Hastings; 10. Barham; 11. Grey; 12. Wellington. Those I have marked 1, 2, 4, 5, 6, 8, and 12, against the bill; those I have marked 3, 7, 9, 10, 11, for it.

"The night was made interesting by the anxieties of all present. Perhaps fortunately, the mob would not on the outside wait so long, as it was, before Lords left the inside of the House.

"God bless you: I am very so so.

"Yours, ever affectionately,

"ELDON."

The news of this rejection was received with joy in some quarters, and with rage in others. The 8th of October, the day on whose early morning the Reform Bill had been rejected, gave birth at Norwich to a society of young tradesmen, called The Eldon Conservative Club, of which Lord Eldon was patron till his death, and since that period the present Earl. At

Nottingham, Derby, and other places, the Reformers rose, and in their zeal for pure government and free opinions, demolished the windows, and, in some cases, even the entire residences of the leading Conservatives. London itself was not left without some striking commentaries on the theory of the Constitution, executed in a style a good deal severer than that of Blackstone or De Lolme. On the 12th a mob assembled calling itself a procession of parishes, and marched upon St. James's palace to present addresses to the King. A large force assailed the houses of several noblemen, not sparing even that of the great Commander, to whom they owed the salvation of the very liberties they were abusing. Lord Eldon appears to have had a narrow escape.

Lord Eldon to Lady F. J. Bankes. — (Extract.)

"October 13th, 1831.

"Our day here yesterday was tremendously alarming. Very fortunately for me, the immense mob of Reformers (hardly a decent-looking man among them) proceeded, first, to the Duke of Wellington's, and set about the work of destruction. This, after some time, brought to this end of Piccadilly some hundreds of the police in a body; and, the Blues coming up from the levee, the appearance of this large body of force was a complete protection to me, dissipating the multitude that were a little higher up Piccadilly. They had also probably heard that the soldiers had behaved with great firmness in or near St. James's Square. The civil power being on the alert, and the military being known to be ready, the night was passed, most unexpectedly, quiet hereabouts; and now, I think, we have nothing to dread. Londonderry has been very seriously hurt. We hear that the mob (but I cannot answer for the truth of it,) hanged in effigy the Duke of Wellington and the Duke of Cumberland at Tyburn. The Duke of Newcastle's house, Lord Bristol's,

&c. &c. and all other anti-reforming Lords, have been visited, and left without glass in their windows. All the shops in the town were shut yesterday. The accounts from Derbyshire, Nottinghamshire, and other places are very uncomfortable. I heard last night that the King was frightened by the appearances of people on the outside of St. James's. As to myself and my house, as we have escaped the first night, I have no apprehensions at all now — none.

* * * * * *

"Some friends very usefully spread a report (not true, however,) that there was a large armed force stationed in my house."

The Ministers, having resolved to repeat their experiment of a Reform Bill in the ensuing winter, now hastened to close the Session, which was prorogued on the 20th of October; and Lord Eldon took advantage of this opportunity to revisit Encombe. On the 17th, after fifteen days of polling, Lord Ashley carried the representation of Dorsetshire, vacant by Mr. Calcraft's death, against Mr. Ponsonby; and Lord Eldon, who reached home on the succeeding day, wrote, during his sojourn there, the letters and extracts of letters, which follow, respecting that election and other matters: —

Lord Eldon to Lord Stowell.

"Encombe,

"Dear Brother, "Tuesday night (Oct. 18th, 1831).

"I can make use only of this scrap of paper, finding no other, upon my arrival here safe to-night. I came through Southampton and Christ Church, at both which places all was perfectly quiet. When I got to Poole, where they are all, with a few exceptions, Ponsonby men, there were appearances of disquiet, and I am informed that they had destroyed a nearly finished new house of an Ashley man. I then saw Ashley, in chalk, exhibited on a gallows in different places. I heard 'Ponsonby for ever!' cried by several. I stopped to change horses — and I was glad when that change was over, because people were collecting a little about the door of the inn and the carriage. However, the change of horses was soon effected, and I was driven off without disturbance. From that place I was saluted by no cries but those of 'Ashley for ever!' The bells were rung as I passed through Corfe; the people assembled were loud in their cries of 'Ashley for ever!' I am sorry to find that things went off very ill at Blandford, near to which, you know, Mr. Portman, the other member for the county, and a Reformer, lives. They nearly (that is the mob nearly) destroyed the house of the Registrar of the Bishop of Bristol, and, as I am told, scattered into the street all the papers belonging to the affairs of the diocese in his possession. This is melancholy; but, take it for all in all, the contest in this county is a matter of great public consequence, both as it shows great reaction of opinion here touching Reform, and an example of what may be done almost everywhere, if gentlemen would act as if they were not in a sound sleep.

"I found my poor daughter Fanny somewhat better, but suffering by fainting fits very much.

"God's best blessings attend you, is the wish and prayer of your ever affectionate brother,

"ELDON."

Lord Eldon to Lord Stowell. — (Extract.)

"Dear Brother, "Monday (Oct. 24th, 1831).

"Your short letter, which I received yesterday, though short, was very acceptable to me. I don't however think, because what I communicated to you must have come from the lowest of the low, that it is therefore not entitled to a good deal of attention. I don't like my correspondent Ignis; when I recollect that I have had repeatedly, when in London, communications that my house and buildings here should be burnt to the ground — when I see incendiarism begun in other counties, and in this at no material distance from my habitation, * * * * and that I was obliged, for several months together, to have a considerable body of men employed, at an expense which I find, upon looking now at my accounts, to be very considerable, — I own that I do not think the threats, even of the lowest of the low, other than extremely alarming;

and, as well as I can recollect, the handwriting of the correspondent of several months ago being the same as that of my present correspondent, I cannot bring myself to think that the letter of my correspondent is not a fair ground of alarm. But this must be met as well as circumstances will admit. I see the Darlington people have grossly abused Lord Tankerville in his passage through that place, on account of his voting against the Reform Bill. At Blandford, in this county, there have been most serious riots, on the same account, suppressed only by *military*.

"It happens fortunately for me that with an exception of a single individual, all Purbeck are 'Ashley for ever!' but notwithstanding this, we are obliged to support a very considerable body of yeomanry — at a considerable expense, — somewhat alleviated by a good advance in the price of sheep.

"God bless you, and be assured that,

"I am ever yours most affectionately,

"ELDON."

The blow inflicted on Lord Eldon by the death of his wife had effected a great change in his constitution. Until that event, though he was eighty when it happened, he had retained much of the robust look of his manhood; but during the next six months he grew so rapidly thinner, that he seemed fast following her to the grave. His habitual equanimity, likewise, had been in some degree shaken by grief; and he was disconcerted and rendered uncomfortable by things which, in his stronger days, he would never have suffered to fret him for a moment. The circumstances of the time and place he lived in, the threats of incendiarism and riot, the irksome vigils which these demanded, the non-payment of rents, and the progress of political intimidation throughout the kingdom, were matters which of course would, in any state of his mind, have filled him with serious disquiet; but even small things would now annoy him. His grandson received a long letter from him on the 1st of November, touching on all those topics, but dwelling with more especial dissatisfaction upon what he had found done in respect to the planting and thinning of his trees at Encombe. "A part of this feeling," says his grandson, "regarded me, though his letters and conversations continued to retain, as usual, his expressions of love and affection. The facts were these: Lord Eldon came to Encombe, after nearly two years' absence; what planting and thinning had been done, though in this letter its extent is much magnified, he, being in an uncomfortable state of mind, found fault with; the gardener, naturally enough, stated that the things were done with my knowledge and sanction, which they were, I having had Lord Eldon's authority to attend to such matters in a general way, and in some of these cases specifically. I, however, was not on the spot to clear up the difficulties at once, for, unsettled as Lord Eldon was as to staying there, he was not conveniently able to have Lady Encombe and myself to visit him then. He began to think that the servants who formed his establishment there might rather be looking to their future, than their present, master; and although as soon as I had the opportunity, I explained each point to him, and gained from him the admission that things had not been done without his authority to the extent he had supposed, yet probably the mischief was never quite eradicated. In earlier times his great object had been that I should, in attending to the trees at Encombe, become attached to the place; but from this period the advance of years, the loss of Lady Eldon, and the decline of his health and spirits which immediately followed her decease, made him probably regard me more in the light of an immediate successor than in that of a young companion. I do not mean that this feeling constantly showed itself, far from it; but when once it had existed, I doubt whether it ever was entirely extinguished."

Lord Eldon to Lord Stowell.—(Extract.)

(Postmark, Nov. 2nd, 1831.)

"The thing that I most feel to be dangerous is the formation of bodies of men under the name of political unions, which I see are forming in London, in every part of England, and in Ireland—the latter, professedly to support English reform, as necessarily leading to the attainment of Irish objects as well as English objects. As to these political unions, I am confident that if Parliament does not do what it did between 1789 and 1794, put them down by Act of Parliament, they will put down the Parliament itself. I have seen a great deal of mischief going forward in the country; but till those institutions were becoming general, and till the Government, by connivance and apathy, can be said rather to encourage than discourage them, I have had hopes that matters might get right. The crisis is formidable, because of those unions."

Lord Eldon to Lord Stowell.—(Extract.)

(November 3rd, 1831.)

"We are safe here, as far as anybody can be safe any where (I mean in Purbeck), by the good disposition of the inhabitants of the Island of Purbeck. But the mischief everywhere is occasioned by strangers from other parts coming to do mischief. I fear that rents will not this year pay the expenses of watching against those villainous intruders.

"Yours most affectionately,

"ELDON."

The feeling of security expressed in the last letter was a short-lived one; for, on the evening of Friday the 4th, Mr. Ledgard, junior, of the Poole Bank, came to Lord Eldon with intelligence that a mob had resolved "to visit and do its best to destroy" Encombe, on the following afternoon. Immediate notices were sent to the yeomanry and magistrates, and that night and the Saturday morning were employed in preparing the labourers, and others who were willing, for the announced conflict: special constables were put in readiness, and twelve muskets in order. The insurgents were expected from the quarter of Poole: but by the address and resolution of Mr. Thompson, a farmer and brickmaker of Lake, in the parish of Hamworthy which is adjacent to Poole, their operations were effectually frustrated. The way of passing from Poole to the Isle of Purbeck, where Encombe is situate, was by flat-bottomed canoes, in which the passengers were ferried from the narrow part of Poole Harbour to Gold Point in Purbeck: it was at Lake that these canoes lay. Mr. Thompson got possession of them all and bored holes in their bottoms, giving notice at the same time that he would shoot the first man who should attack his premises at Lake. The rioters, thus cut off from the water-passage, had no road to Purbeck but by traversing on foot the long route which leads round, over Wareham Bridge: and thus foiled, they gave up the design.

"My dear Brother, (Nov. 1831.)

"I am afraid I plague you with my daily letters; but writing them is almost the principal comfort I have. As Goldsmith says of his heart, when on his travels, and thinking of his brother at home, so say I,—It 'still to my brother turns.'

* * * * * *

"Yours, ever affectionately,
"ELDON."

By this time, however, his mind had its gleams of cheerfulness; and towards the end of November he was able to receive a visit at Encombe from the Duke of Cumberland.

During his Lady's life, he had been not only secluded from general society, but even somewhat limited as to his family circle. After her death he began, and for the rest of his life continued, to assemble round him the connexions of his family, and to find pleasure and consolation in their attentions.

CHAPTER LV.

1831, 1832.

LETTERS OF LORD ELDON TO LADY F. J. BANKES. — ADDRESS ON OPENING OF SESSION: BLACK LIST. — LETTERS OF LORD ELDON TO LADY F. J. BANKES, LORD ENCOMBE, AND LORD STOWELL. — IRISH TITHES. — ATTACK ON LORD ELDON FOR SUPPOSED ACCUMULATION OF PATRONAGE UPON HIS SON: HIS VINDICATION OF HIMSELF IN THE HOUSE OF LORDS. — LETTERS TO LADY F. J. BANKES AND LORD STOWELL. — THIRD REFORM BILL: LORD ELDON'S SPEECH ON THE SECOND READING. — LETTERS OF LORD ELDON TO LORD ENCOMBE. — DEFEAT OF MINISTERS BY LORD LYNDHURST IN COMMITTEE ON REFORM BILL. — THREATENED CREATION OF PEERS TO FORCE THE BILL: REMONSTRANCE OF LORD ELDON: REFORM BILL FINALLY CARRIED.

LORD ELDON returned to London for the meeting of Parliament at the beginning of December 1831. To this date seems to belong the letter of which an extract follows, commemorating the behaviour of his now constant companion Pincher, a favourite German spaniel belonging to his son William Henry.

Lord Eldon to Lady F. J. Bankes. — (Extract.)

(Probably beginning of Dec. 1831.)

"When I got to Southampton, Pincher, who sends his kindest regards, marched up to the Bed-room, in which I slept the two last times I was there. The chambermaid provided another room for me, the house being full of company, there being a ball at Southampton. Pincher was uneasy at this, and out of humour, and if he could speak, he would not have allowed it."

In the Lords' debate of the 6th of December, the opening day of the Session, Lord Eldon made some remonstrances against the line of argument taken by Lord Lyttelton in reference to the Reform Bill of the Session preceding.

Lord Eldon observed that with that bill their Lordships had no concern at present. It was indeed, he said, an irregularity to have referred to it at all in this discussion, inasmuch as it had not been mentioned in the speech from the throne. There was no reason to believe that *the same* bill would be proposed again: if it should, the House would be bound to re-consider it, and it would be the duty of any Noble Lord who, on such re-consideration, should think he had mistaken his duty in opposing it before, to retrace his steps. He had no disposition to say other than " Content " to the address. In reference, however, to that part of the speech which touched upon the necessity of punishing the violators of the law, he must mention to the House a publication, which, if he had not seen that it was left unpunished, he could not have believed endurable. He did not speak of the newspapers, for in them there was generally some reasoning to be met with; he spoke of a thing called the Black List. He was there put forward as receiving 54,000*l.* a year out of the taxes, and his elder brother, whom this accurate list described as his nephew, was represented as receiving a pension of 4000*l.* a year. The Noble Lords, who, in the last Session, had voted against the Reform Bill, were held up in this paper as receiving millions of money among them out of the taxes. He felt it fair, however, to add, that some of the Reformers were included in the same list. As he understood that many thousand copies of this publication had been sold, he must think it matter of just complaint that some means had not been taken to stay the circulation of such falsehoods.

Earl Grey excused the forbearance of the Government, on the ground that the contents of the paper in question were too stupidly false, too extravagantly absurd, to influence any honest or intelligent man in the community.

Perhaps it may be allowable to observe in passing, that the "honest and intelligent" members "of the community" are not precisely the classes, with respect to whom a careful statesman would think it most necessary to be on his guard against excitement. — Lord Eldon observes, as to this black list, in a letter to Lord Stowell, bearing the post-mark of the 27th of the preceding October, that

> "If good men have the law unadministered on *their* side, and some bad men have the laws constantly violated on *their* side, there is no doubt that finally the latter will destroy the former."

In or out of office, the Duke of Wellington never abated his watchfulness for the welfare of his country: witness the following extract of a letter from Lord Eldon to Lord Stowell: —

> (Post-mark, December 8th, 1831.)
>
> "The Duke of Wellington did not attend the House the other night. I sat with him near an hour the day before, in deep conversation and most interesting. Letters *that he wrote to a great personage* produced the proclamation against the Unions. But if Parliament will not interfere further, the proclamation will be of little use, — I think, of no use."

Lord Eldon to Lady F. J. Bankes. — (Extract.)

> "December 10th, 1831.
>
> "I don't think anything material passed in the Houses last night — Lord Grey said that he has no further measures to propose about the Unions. Indeed, I do not know how he should, having been once himself at the head of a political association which was in fact a political union.

On the 12th, the third Reform Bill was opened by Lord John Russell to the House of Commons. Next day, Lord Eldon writes thus to Lord Stowell: —

(December 13th, 1831.)

"At present I can make no other observation upon it, except that Ministers, — who, at the end of the recess, have been obliged to confess that they were, before that recess, pressing for the passing of a bill of the utmost importance, upon imperfect information as to so many things which required that they should have the most perfect and complete information, — that such Ministers deserve impeachment."

The House of Lords adjourned on the 16th for the Christmas vacation, which Lord Eldon passed at Encombe.

Lord Eldon to Lady F. J. Bankes.

(Not dated; 1831.)

"I am told that the French in this country attribute, very much, what is passing in their own, to our proceedings here. Our riots, our tumults, our talk, and proceedings about Reform, the rumours of creating Peers to stifle the voice of the majority of Peers here, — these things the French here think have hastened their country, more, to do the works of mischief they have done in France. Their countrymen are more volatile than we are — they have travelled somewhat quicker on the road to ruin, than we sluggish Englishmen travel; but we are, I fear, on the same road."

Lord Eldon to Lady F. J. Bankes.

(Not dated; 1831.)

"Smith's constant attention to me, at a time when I cannot but be very troublesome to a servant always about me, has been invaluable, and indeed I must say that all my servants behave most attentively and well to me. My heart aches when I think — and often do I think — 'what I am,' and contrast it with 'what I have been:' perhaps this severe visitation is intended to fix my thoughts 'upon what I have been,' and to contrast that 'with what I ought to have been.' God grant me power and will to act 'as I ought,' whilst he continues me here."

On the first day of the new year, he wrote one of his short, but affectionate remembrances to Lord Stowell: —

"Dear Brother, — I trouble you with this, to wish you on New Year's day all the health and happiness that a brother's affection can possibly lead him to wish you may enjoy. God bless you, is my anxious, heart-felt wish and prayer.

"You will hear from me again very shortly as to my intended movements from hence. Beautiful weather here.

"Yours, most affectionately yours,

"New Year's Day." "ELDON."

Lord Eldon to Lord Encombe. — (Extract.)

"1st January, 1832."

"The state of the poor in this neighbourhood is miserable. I have done as much as I can to relieve it, and I hope I have, in some degree at least, comforted them."

About the third week of January, he returned to London to attend his duty in Parliament. On the 23d of January, in a note to Lord Encombe who was now in town, Lord Eldon writes,

"In walking back from the Duke of Wellington's yesterday, I found two persons in debate, in front of my house, upon the sufficiency or insufficiency of the defences of my windows to protect them. Their verdict was unfavourable to me, as far as I could hear it."

Parliament re-assembled on the 17th of January. In a debate of the House of Lords on the 2nd of February respecting the Russian-Dutch Loan, Lord Eldon censured the Ministers for the course they had taken respecting that matter; but the topics of the discussion were temporary, and have long since lost their interest.

The great question of Irish Tithe was now exciting a deep anxiety among the friends of the Church. How Lord Eldon felt upon it will be seen not only from his speeches in February and March, but from his letters to his brother.

Lord Eldon to Lord Stowell.

"My dear Brother, (Post-mark, February 23rd, 1832.)

"The Irish tithes are matters infinitely difficult to manage, and, from all I can learn, the day is approaching, and fast approaching, when laws of all sorts in that country will give way to force and arms.

"I did not go to the levee; I will try to go next Wednesday, if my back will permit. I have, by way of diverting my mind from attention to pain as well as I can, begun attendance upon causes in the House of Lords.

"Ever most affectionately yours,

"ELDON."

On that night, petitions for the abolition of tithes in Ireland were presented to the House of Lords by Lord King, who stated that the people of Ireland were unalterably determined on the total extinction of that burthen.

Lord Eldon implored the House, for God's sake, to take care how they dealt with acknowledged property. He would ask the lay impropriators whether *they* could agree to this total abolition, simply because the people said they *would* not pay?

This subject came again under discussion on the 27th, when

Lord Eldon begged the House to observe in what way it had been introduced to their notice. It had been introduced by tirades of all kinds against the clergy of Ireland. These were accompanied by similar attacks on the lay impropriators, who, it was said in one of the petitions, desecrated the property devoted to pious and charitable uses. He hoped the Duke of

Bedford and other Members of their Lordships' House would look a little closely into the effect of this argument of desecration.

Lord Eldon to Lord Stowell.

(Post-mark, February 28th, 1832.)

" Dear Brother, " Tuesday.

" We had, in the House of Lords last night, as you will perceive from your paper the ' Standard,' a brush upon all manner of things, foreign and domestic. I spoke out upon many of the points, in such plain language and in an extent which will expose me to the fierce resentment of many: but I see no way of awakening people to the result, which must, both as to our foreign and domestic concerns, result from their apathy, but devoting one's self in Parliament to such resentment. The misfortune is, that, from pain and weakness, I can scarce make myself heard."

On the 8th of March, Lord Lansdowne, as a member of the Government, moved a series of resolutions on the subject of Irish Tithe, by the last of which it was proposed to declare the necessity of a universal and complete commutation. This proposal was strongly resisted by Lord Eldon, who held it wholly unjustifiable to vote the extinction of the tithe, until the equivalent for it should be settled by some definite plan.

He said that when a measure was brought forward which went directly to the annihilation of Church property, and when they were not even told, by those who brought such a measure forward, what they would substitute for that property, he was very much disappointed not to see a single member of the Right Reverend Bench rise, to defend the interests of the Church now so vitally at stake, and to protest against a measure of such a description as the present. There was no argument which applied to the extinction of Church property in Ireland, but what was equally cogent against Church property in England. He thanked his God, however, that he should not be amongst either the ecclesiastical or the lay supporters of this motion. He would not give his assent — his opposition, he saw, would be useless — to a measure which went to deprive the Ministers of the United Church of England and Ireland of that which constituted their entire support, and to which they had as much right, as there existed to any lay property in any part of England. It was perfectly absurd to suppose that what would take place in Ireland in this instance would not be sure afterwards to take place in England also.

A motion having been made in the House of Commons, on the 6th of March, by Mr. Dawson, respecting the accumulation of legal patronage by Lord Plunkett (then Chancellor of Ireland), upon his own relations and connections,

Mr. Spring Rice, in defence of that Learned Lord, referred to the report of a Committee of the House of Commons, from which it appeared that six legal offices of profit were held by Lord Eldon's son, the Hon. W. H. J. Scott. Mr. Rice added, that no doubt, if there had been six sons, thirty-six offices would have been distributed among them; and he could not help feeling astonished that Mr. Dawson, with such a record open to his inspection, had thought proper to reserve his virtuous indignation for the Lord Chancellor of Ireland.

Mr. George Bankes observed, that two of the offices which had been bestowed upon Mr. Scott were offices in reversion, of which he had never arrived at the enjoyment.

On this discussion, Lord Eldon writes thus to Lord Stowell: —

"Dear Brother, (Post-mark, March 8th, 1832.)

"Before you receive this, you will have seen in the papers a speech in the House of Commons of Mr. Rice, justifying Lord Plunkett's appointments for the benefit of the Plunkett family — and justifying him by the example of Lord Eldon's conduct in giving offices to his son. Neither I, nor any friend of mine, had any notice of that gentleman's intent to say one word relative to me and my son.

"I am going down to the House of Lords, though very ill able so to do, to seek an opportunity of saying something upon the subject — and though this sort of business is very unpleasant, I have no doubt that when my explanation is made I shall be very triumphant.

"Politics go on ill.

"I am determined to take the first opportunity I can, to have this matter fully explained.

"Yours affectionately,
"ELDON."

In the House of Lords, that afternoon, before the debate on the Irish Tithes, Lord Eldon gave notice that, on the following Monday, he should bring forward a motion relative to his own character and conduct.

He said that, in this, he had no other object but to set himself right in the opinion of his countrymen, to whom he would leave it to decide whether his conduct, while he filled the office of Chancellor, had been right or wrong. He had discharged his duty, invariably, to the best of his ability; and he would allow no man, unanswered, to arraign him. He wished his countrymen to know, that he was content to apply to *them* for their opinion of his public conduct.

On the 12th of March, he brought on the motion of which he had thus given notice.

He said that it had been his own wish, when the Great Seal was offered him, to remain Chief Justice of the Common Pleas; but that he had been drawn forth by his Sovereign's behest to the office of Chancellor, which he had accepted only from a sense of the duty of obedience which he owed to the command of the Crown. In consequence of the death of two out of three individuals who had been appointed to situations connected with the Court of Chancery, his gracious Majesty King George III. had pressed him to accept the patents of those offices. He for a long time declined doing so; but his Majesty continued to importune him so much on the subject, that he at last thought it a matter of duty no longer to resist the wish of his Sovereign. It was not until 1805, four years after he entered office, that any place was given to his son. It would doubtless be in the recollection of their Lordships, that when the doctrine was broached that reversions ought not to be granted, those which were attached to courts of justice were made matter of special exception. He had always thought it his duty to the Crown to insist upon the patent right to those offices; but, taking into view the probabilities of life, they were in fact not worth having, except as marks of the favour of the Crown. He claimed credit for the forbearance which he had shown in not bestowing upon his son, offices which, fairly and according to usage, he might have given to him, and concluded by moving for a return of the offices, in possession and reversion, held by himself and his family.

His speech is very imperfectly reported; but the gist and result of it are supplied by himself in the succeeding letter: —

Lord Eldon to Lady F. J. Bankes.

"March 13th, 1832.

"The business of last night went off very well. My voice is too weak, to have any thing that proceeds from it well reported.

"Publications here, wicked and diabolical, have represented W. H. J. as receiving, under a patent in bankruptcy, 12,000*l.* a-year. I proved to the House, that, under that patent, he did not receive one farthing.

"I proved to the House also, that instead of greedily laying hands on all sources of income in the office, I had, out of my own pocket, supplied, in case of the suitors, sixty-two thousand pounds. I think I can assure you, that all sides of the House were very well satisfied. Even many, who, for various reasons, wished me to withdraw my intention of moving, came to me after I had done, expressing their delight that I had refused to attend to those wishes. The Chancellor stated, that I had acted in my communications with him with perfect liberality, and that W. H. J., in the office that connected him with the Chancellor, had conducted himself entirely to his satisfaction."

The six offices granted by Lord Eldon to his son were as follows: —

In possession, those of Clerk of Patents, Registrar of Affidavits, Receiver of Fines, and Cursitor.

In reversion, the office of Clerk of the Crown in Chancery, and the office for the execution of the Statutes of Bankrupts.

Mr. W. H. J. Scott had been a Commissioner of Bankrupts from 1816 to 1821.

Lord Eldon to Lord Stowell.— (Extract.)

(Post-mark, March 13, 1832.)

" It seems to me now too clear, that the opponents to the Reform Bill will split upon the question, about reading the bill a second time, or rejecting it upon the second reading. If they do, I fear the bill will pass.. I attribute much to affright and fear of mobs. I don't wonder that there should be such affright and fear. The numerous, most *violent* and *furious menacing* letters which I receive, are enough to affright persons less accustomed, than I am, to receive them. I am myself sure that those, who are afraid of the immediate consequences of rejecting the bill, will ultimately suffer much more by passing it—the Bishops particularly."

Lord Eldon to Lord Stowell.

" Dear Brother, (Post-mark, March 23rd, 1832.)

" Last night the Reform Bill passed the Commons by a majority of 116—594 members voted.

" In the House of Lords, the Bible was denied to the Government Irish Schools, by a majority of 37.

" Yours affectionately,

" ELDON.

" Friday."

Mr. Pennington, Lord Eldon's medical adviser, had now come to an opinion, that Lord Eldon's health would be assisted by frequent movements through long columns of air. From this time therefore, for the remainder of his life, he travelled a good deal, — and sometimes with no object but the journey itself. In the early part of April 1832, he made a little tour with his own horses, but returned to London for the debate in the House of Lords on the second reading of the new Reform Bill, which had been brought thither on the 26th of March and read there a first time on the same day. The debate on the second reading began on the 9th of April, and lasted, by adjournments, through the 10th, 11th, and 13th. On the last of these nights, Lord Eldon spoke to the following effect:

He said that, during the fifty years of his public life, he had never suffered such deep pain as on seeing the House of Commons come to the bar of that House with the bill now upon their Lordships' table. Looking at that body as representing the constituency of the country — the light in which all great constitutional authorities held that they ought to be viewed — he could not but feel a deep sense of humiliation in recollecting the *pledges* under which they had permitted themselves to be returned to the House of Commons. At the time of the Revolution of 1688, when the Convention came to pass an Act of Parliament by which the best rights of the subject were secured, they set out by a declaration, affirming that they were not delegates from this place or from that place, but, clothing themselves with a character more elevated and a higher duty, they declared that they were the representatives of all the commons of England. To convert a member of the other House of Parliament into the mere representative of the particular place for which he was returned, instead of the representative of the whole of the commons of England, was a perversion of one of the best principles of the Constitution; and if there were members of the other House, who would indeed submit to the degradation of being called to account by their particular constituents, it was high time to take measures to prevent such men from continuing to sit in Parliament. It had been stated, that he had declared himself in that House an enemy to all Reform. He begged to repeat what he had stated upon a late occasion in that House, that he was bound, as a Peer of Parliament, to pledge himself not at all; but, in the conscientious discharge of his duty, to consider and determine upon each measure separately, according to its merits. He opposed this bill in discharge of a sacred duty which he owed to the Constitution and to the people. It was a gross fallacy to state, that either the former or the present bill could be a *final* settlement of the question of Reform. He had heard much of an exercise of the royal prerogative, by which the passing of this bill was to be secured. He did not deny the right of the Sovereign to the free exercise of that prerogative. He would admit that, at the next Recorder's report of persons condemned at the Old Bailey, the Sovereign possessed not only the right to grant a free pardon to any number of such convicts, but to make Peers of them if he pleased. At the same time he contended, that no censure would be too severe, no punishment too great, for any Minister who should advise his Sovereign to destroy the House of Lords by an enormous creation of new Peers. It had been proposed by some of those who wished to set aside the Constitution as it existed, that writs should be issued by the Sovereign to new boroughs and great towns, and that the writs which had been usually issued should be withheld from others; and he would say, without hesitation, that, if the advice given by one of the newspapers to swamp that House with a number of new Peers was adopted by the Minister, he would not pursue a course less unconstitutional, than if he was to advise the King to exercise his prerogative with respect to the writs in the manner he had stated. Borough property was a species of property which had been known in this country for centuries: it had been over and over again made the subject of purchase and sale in all parts of the kingdom, and they might as well extinguish the right of private individuals to their advowsons, as their right to exercise the privileges which they derived from the possession of burgage tenures. He could not separate from this bill the two bills for amending the representation of the people in Scotland and Ireland. If he had those bills with him, he could demonstrate to the conviction of all who heard him, that the Scotch bill would create a perfect revolution in Scotland, and that the Irish bill would destroy all those bulwarks which were essential to the safety of the Protestant Establishment in Ireland. Besides, whatever might be the case in England, it was quite clear, that the holders of borough property in Scotland and in Ireland were entitled to a compensation for the loss of property which these bills would respectively inflict upon them. In Scotland, when the heritable jurisdictions were destroyed, the greatest caution was observed by the Legislature, that those who then held them should not be damnified in property by the loss of them; and, in Ireland, when the Union was passed, and the number of Irish boroughs was diminished, a liberal compensation was granted to those who then were in possession of them. If the principle, which was adopted in those two countries at those two periods, were adopted on the present occasion, then would the holders of Scotch and Irish boroughs, which these bills disfranchised, be entitled to receive compensation also. Any Irish nobleman, who had received compensation for the destruction of his Irish borough, who voted for the present bill, was bound, as an honest man, to go and return back to the Treasury the money which he had received some thirty years ago as a compensation for his loss. He had stated it to be his sincere opinion, that the great mass of intelligence and property now in the country were adverse to this bill, and he still thought his assertion correct. He did not mean to deny, that the lower class of people were anxious for the measure; but, in his judgment, they would not be satisfied until much more was done than was now proposed. The associations called Political Unions explicitly declared they had further objects in view. Moreover, if the labouring classes and the operatives still continued to subscribe a portion of their scanty wages to support contests against the aristocracy in counties some hundreds of miles from the place in which they earned their subsistence, things would soon be reduced to a condition incompatible with the existence of good government. He thought that sufficient promptness and energy had not been displayed by the Administration in putting down the Political Unions. They had, indeed, issued a proclamation against them, but they had not seriously endeavoured to give effect to that proclamation. The consequence was, that a degree of excitement prevailed among the lower orders in favour of this bill, which was without a parallel in the history of this country. He maintained that, during all these discussions, the name of the King had been shamefully and unconstitutionally used. The Sovereign was constitutionally advised to recommend the consideration of this measure to his Parliament: but he was not constitutionally advised when he was brought forward, almost personally, to say that he was determined to have it carried into law. For the sake of the higher, the middle, and the lower orders of society, — for all of whom, and more particularly for the last, he considered himself a trustee, — he was determined, as far as in him lay, to preserve the blessings of that Constitution under which they had all been born and spent their lives, which had rendered them happier than any other people on God's earth, and which had given to their country a lustre and a glory that did not belong to any other nation in the world."

The debate proceeded through the whole of the night. Between six and seven in the morning, the House divided, when the second reading was carried by a majority of 184 against 175.

On the 17th, the House adjourned for the Easter recess: of which Lord Eldon again availed himself by changing the air from London to Encombe. From the latter place he writes to his grandson, about the 22nd:

"As it was recommended that I should travel through a great column of air, or keep continually moving from place to place, or go to the sea-side, I thought it better to brave a journey to this place. Some changes have taken place, which I think you would not dislike, and which I hope will make the place worthy in the summer of receiving Louisa *, — and that place must be indeed unexceptionable, if it is worthy of receiving her."

Lord Eldon returned to London on the 1st or 2nd of May. On the 2nd he was to have presented Lord Encombe at the levee; but he excused himself by a note, in which he says,

"I sincerely and anxiously hope that you will excuse my attendance at the levee. I am aware that my name, having been given in, as your introducer, has the very same effect as if I was present, or otherwise I should attend you."

For his non-attendance on Lady Encombe at the drawing-room of the following day, he apologises in a sadder strain: —

(May 3rd, 1832.)

"I wish to apologise to you and Louisa, to whom give my best affections, for not appearing at the drawing-room to-day, but I shall never be able or willing, whilst I exist, to throw off my sable garments, and, on such an occasion, I could not attend in such garments.

"I am also under the necessity of spending to-morrow afternoon with Lord Stowell."

"I remember," says the present Earl, "that this was the last year Lord Stowell came to stay in London. I called one day, and saw him at his house in Grafton Street; and I proposed to call again and introduce Lady Encombe to him. He said that, being then unwell, he would appoint a day when he was better. But he left town very shortly, still unwell; and I never saw him again until I went to Earley Court, the day

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* Lady Encombe.

before the funeral of his son William Scott, who died November 26th, 1835. On that occasion Lord Stowell, whose mental faculties had failed, seemed, as Lord Sidmouth then expressed it, to have an idea that I was a person of whom he was very fond; but apparently he was not capable of forming any clearer notion."

The House of Lords, re-assembling on the 7th of May, proceeded, the same afternoon, to commit the Reform Bill. In Committee, the Ministers were defeated on a motion, made by Lord Lyndhurst, to postpone the disfranchising to the enfranchising portion of the bill: and thereupon, under all the circumstances of the case, they judged it expedient to acquaint his Majesty, that unless he would announce a resolution to create such a body of new Peers as would carry the measure in the form which its authors deemed essential, they must request him to accept their resignations. The King at first resisted ; but, after some days had been unsuccessfully occupied by him in an endeavour to form a new Government, he found himself under the necessity of re-establishing Lord Grey's Ministry on their own terms. It was now intimated to the leading opponents of the bill in the House of Lords, that the proposed creation of Peers could be prevented only by the forbearance of a sufficient number of them from any further opposition to the measure before the House. The Duke of Newcastle, on the 21st of May, gave notice of a motion respecting the fitness of such an exercise of the prerogative : and a conversation arose, in the course of which,

Lord Eldon argued that though the existence of the prerogative could not be questioned, it was open to the House to question the fitness of its exercise on any particular occasion: and protested against the application of it for the purpose now threatened, as being at once injurious to the people and perilous to the Crown.

There appeared, however, but a choice of evils. Lord Eldon and the Anti-Reformers in general resolved therefore to abstain from further resistance, and the bill went rapidly through Committee. On the 4th of June it was read a third time, after a division, in which 106 supporters of it recorded their votes against only 22 of its opponents. The remainder of those adverse to it persevered in the quieter policy of absenting themselves: and so saved the Peerage, with what else was left of the Constitution.

CHAPTER LVI.

1832.

LETTERS, FROM THE DUCHESS OF CUMBERLAND TO LORD ELDON, AND FROM LORD ELDON TO LORD STOWELL. — HOUSE OF LORDS: CAPITAL PUNISHMENTS: STATE OF IRELAND. — LETTERS FROM LORD ELDON TO LORD STOWELL. — DEATH OF MR. W. H. J. SCOTT. — BILL FOR ABOLISHING CHANCERY SINECURES.—LETTERS FROM LORD ELDON TO LORD STOWELL. — VISIT OF LORD ELDON TO DURHAM: MISS FORSTER'S RECOLLECTIONS OF IT. — LETTERS FROM HIM TO LORD ENCOMBE AND TO MRS. BELL.

The Duchess of Cumberland to Lord Eldon.

"My dearest Lord, "St. James's Palace, June 4th, 1832.

"I cannot let this day* pass without expressing to you my most sincere good wishes for your health, long life, and happiness. I pray to God that so valuable a life may be prolonged, and I trust this prayer will be heard, if it is God's pleasure that England shall be longer preserved as it is with King and Constitution.

"It seems very ungrateful in me not to have returned you my thanks immediately after having received your valuable picture, so beautifully framed; but I begged the Duke to express my gratitude, as I was afraid of becoming troublesome writing so soon again.

"I brought a few flowers from Kew, which I beg of you to accept, and the cups which accompany this note, and which I beg you will not trouble yourself to answer, as you have better things to do, and a night of great business in prospect.

"Believe me, with the highest regard,
"My dearest Lord,
"Yours very sincerely,
"FREDERICA."

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* Lord Eldon's birth-day.

The letters and extracts of letters from Lord Eldon to Lord Stowell, written during the months of June, July, and August, 1832, reflect many of the passing events of this period.

Lord Eldon to Lord Stowell.

(June 16th, 1832.)

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"It should seem now to be obvious that the Political Unions have found themselves strong enough to teach Lord Grey that his reliance on the good sense of the people is downright nonsense. They avow that they will force universal suffrage, vote by ballot, pledges from candidates to promote all their objects, rendering the members pure delegates; and that nobility, or at least hereditary nobility, shall no longer exist.

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"A Reformer in the country, where I have been, said, that there was not time for bringing about a change in the *present* possessors of property, but that it was sure to take place, and not later than between the children of the possessors and the children of those who now possessed nothing but the fruits and wages of work and labour — that *that* change could not be prevented."

"Dear Brother, (Post-mark, June 19th, 1832.) "Tuesday.

"Yesterday gave us a remarkable specimen of the uncertainty and mutability of human affairs, and of what is deemed popularity. It was the anniversary of the great and glorious Waterloo battle. The illustrious soldier who achieved the unparalleled feats of that day happened to go, as Constable of it, to the Tower. Upon his return, on horseback, all through the city, he was hooted, hissed at, &c., without a voice in his favour, or a finger held up to protect him from insult. When out of the city, he got to Lincoln's Inn, and took refuge in somebody's chambers there.* From thence, having the protection of a very large body of the police, through hisses, groans, &c., he got safe to his house, Apsley House, the windows of which are no longer boarded, but protected by iron, strong enough to be proof against ball and bullet, and which protecting iron, I have been told, cost him 1500*l.* So passeth away the glory of this world! The doctrine of 'No King' is reviving here! to which is added, what Queen Charlotte in George III.'s time escaped, 'No Queen.' The unions all over the country are issuing their proclamations for further revolutionary measures. They receive neither check nor punishment. The lawyers, of all parties, behaved well to the Duke of W. whilst in Lincoln's Inn — and, in his transit, people with better coats on their back than those of the mob, cheered him, except in the city. He acted with great coolness and spirit.

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* Mr. Farrer says that the Duke passed into Lincoln's Inn, not to escape the mob, but merely to make an affidavit, for which purpose he called at Sir C. Wetherell's chambers in Stone Buildings: and

"The unionists are, it seems, unanimous for a Repeal of the Corn Laws. The abused and misled lower orders are all for this. It will ruin them. Suppose the repeal lower rents one half — what is the consequence of that? The landed gentlemen can neither keep one half of the number of servants they now keep, or spend one half of what they now spend with tradesmen and manufacturers. Of course the tradesmen and manufacturers must lower the wages, one half, of all the servants and workmen they employ, or only employ one half of them. — The system, that the working class and servants are now pushing, must ruin themselves."

Lord Eldon to Lord Stowell. — (Extract.)

"Dear Brother, "Thursday (June 21st, 1832).

"You will read, in your 'Standard' of to-morrow, a most interesting account of what passed last night in the House of *Commons*, relative to the stone-throwing at the King at

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Mr. Farrer, who was the sitting Master on that day, went thither to administer the oath. The space before the door was much crowded, and the lawyers were shouting, "We'll see him safe home!" Mr. Farrer adds, "I found many persons in the room much excited: "the Duke was sitting very quietly "at the end of it."

[Not into the chambers occupied by Sir Charles Wetherell, to make an affidavit, but into chambers on the same staircase, then occupied by the solicitor to the treasury, to sign an answer in Chancery. — *Note to second edition.*]

Ascot. Hardly a soul of the Tories in the House of Lords being present when Grey moved the address upon the same subject, we should all have been thought devoid of loyalty, if I had not, in a few words, said how warmly they would, one and all, have expressed their abhorrence of personal attack upon their King, if they had had notice that the subject was to be mentioned. It was merely accidental that I was there. I am not fit for any work."

On the 25th, the House of Lords being about to go into Committee upon the bill for abolishing the punishment of death, in cases of horse-stealing and of stealing to the value of five pounds in a dwelling-house,* Lord Eldon expressed his disapproval of so great a relaxation. According to his experience, the fear of death did very often operate to prevent the commission of those crimes against which it was directed. He remembered, at a particular time, that the judges, having found a great number of horses stolen, declared, that on the next circuit they would leave every man for execution who should be found guilty of that offence. He believed that between that and the next circuit not one horse was stolen in all England; so that the judges were saved from putting into execution the denunciation they had previously made. — Many crimes, of the same denomination, differed so much in circumstances, and were so different in degrees of guilt, that the Legislature had been compelled to make a sweeping law to embrace them all. He need not go further than the subjects mentioned in the bill to find an illustration of this fact. One part of the bill related to horse-stealing; and he remembered two cases of horse-stealing which would explain what he meant. One was the case of a man who stole a horse in the neighbourhood of London, and afterwards sold it to some person near the Small-pox Hospital, who killed it. That horse, it was proved on the trial, was not of the value of 5*s.*, except to be killed. The Crown extended its mercy to the man, and it certainly would have been a hard case if the law had been suffered to take its course. He then related the case of another horse-stealer (mentioned in his speech of 30th

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* 2 & 3 Will. 4. c. 62.

May 1810), on whom were found the skeleton keys of the turnpike-gates round London, and who was left for execution.—The same difficulty, he observed, was found with respect to forgery. Suppose a man was to forge a cheque upon him for 10*l.*; he should as soon think of hanging himself as hanging the man for that single offence. But forgery might be committed with some most aggravated circumstances; there might be great breaches of confidence — a person might be intrusted with powers of attorney, and might defraud all his customers — a man might do as Fauntleroy did, forge all the names of the customers for whom he was trustee, and might take out of the pockets of those customers, in a few months, 250,000*l.* or 300,000*l.*; and to say that such a man was not to be punished with death, out of respect for human life, was carrying the doctrine too far. — Again, the bill exempted from the punishment of death individuals found guilty of stealing to the amount of 5*l.* in a dwelling-house. Was this, as a general regulation, a wise one? A man might come to his house, and steal 5*l.* Now if he prosecuted that man to conviction, he did not think that the man was likely to be visited with the extreme penalty of the law; because the offence would not seriously affect his fortune. But let them put the case in another way. Let them suppose that the person despoiled was a poor industrious man who had found it extremely difficult to amass such a sum. Did not this make a wide and marked distinction in the case? Did not the act that reduced this man to utter penury deserve condign punishment? The lightnings of heaven might consume the poor man's cottage, the thunders of heaven might destroy his dwelling, but still the law said, "It is his castle, and the hand of violence shall not touch it." But what did this bill declare? It said, that the robber might enter the poor man's abode, almost with impunity. The ruffian who deprived the poor man of 5*l.* robbed him, perhaps, of every shilling he possessed in the world, — took from him more, perhaps, than he would be able to acquire in five or ten years, by his most anxious exertions. The laws of this country were justly framed to meet all these circumstances, and any severity, that might appear to be attached to them, was fairly balanced by the prerogative of mercy which was placed in the hands of the Crown. — Before their Lordships attempted to alter the criminal code of the country in this manner, they ought to see what was a proper secondary punishment. He could only say, that having had opportunities, year after year, for nearly half a century, to consider this difficult question, he had never yet found one single man, bred in the study of the law, or one politician knowing a great deal of the law, as many of them undoubtedly did, who was able to point out to him what, to his mind, was a satisfactory secondary punishment. The law provided general enactments to prevent enormous crimes. Now, they could not have those general enactments to prevent such crimes, without classing under them offences of a nature with reference to which it might *sometimes* be necessary to suffer the law to take its course. It did not, however, follow that they ought, therefore, to abrogate the law *altogether*. In such cases as those to which he had alluded, it was left to the Crown to exercise the prerogative of mercy; and, so far as his knowledge extended, mercy never had been refused in any instance where it ought not to have been withheld. He, therefore, was not favourable to this measure.

On the 2nd of July, Lord Eldon was among the supporters of Lord Roden's unsuccessful motion for an address to the Crown on the state of Ireland. In reply to the plea that the disturbances of that country had existed from early times,

Lord Eldon said that the law ought to have been put in force by the Government against them. To leave matters of this kind to be settled by the progress of good sense and calm reflection was, in critical circumstances, a rather unsafe mode of proceeding; for if calm good sense had been absent for so many centuries, it was not very likely to return in time to be of service now. The common law must become utterly useless, if, before it could be brought into operation, it were necessary to wait and see the mischief done. He was convinced that the resistance to payment of tithes began in a conspiracy, which, if prosecuted with vigour, might be easily punished.

Extracts of Letters from Lord Eldon to Lord Stowell.

"Dear Brother, (Post-mark, July 3rd, 1832.)

"I got home, so as to retire to bed about three this morning, very weary and much fatigued. The debate was about Ireland; the state of it, the wretched condition in which it is, the consequences which must follow if vigorous measures are not adopted, were strongly pointed out. I took a part, in order to contradict the law laid down by Plunkett, the Chancellor of Ireland, as to conspiracies, the common law of the country, and the neglect of applying that law.

"In the papers, the debate is most wretchedly and imperfectly given.

"My son is some little, very little, better. His behaviour, under his situation, of which he is perfectly apprized, is very affecting. His resignation, and pious feelings, do, as far as they can afford me comfort, afford it."

(Post-mark, July 4th, 1832.) "Wednesday.

"My son is in a most critical situation. Pennington told me yesterday, that four or five days will decide, whether he will recover, or whether a termination must come, the apprehension of which overwhelms me, in the state in which I am myself. Poor fellow! he has sent to me to express his wish that I should take the sacrament with him."

On the forenoon of that day, Lord Eldon, his son, and his daughters, took the sacrament together at William Henry's house in Park Street: and there, early on the morning of the Friday, William Henry breathed his last. Lord Encombe, on receiving the news, hastened to Lord Eldon, in Hamilton Place, where he found several members of the family assembled at the breakfast-table. William Henry's death had thrown his failings into the shade and brought his virtues into relief, in the view of his sorrowing father. "Well," said Lord Eldon, "I must say of him, that whatever faults he had, and however unfortunate they were for me, he had the best heart of any man I ever knew in my life."

William Henry had never married; and as the ample income, which he derived from several offices conferred upon him by his [redacted] exempted him from the necessity [redacted] application, he led in general what is [redacted] a life of pleasure, except for some little attendance at the House of Commons, of which he was a member during the three Parliaments from 1818 to 1830, representing successively, Heytesbury in the first, Hastings in the second, and Newport (Isle of Wight) in the third.

In society he indulged a sly humour, of which the effect was much heightened by a handsome countenance, and an appearance of shyness, under which however he maintained the most complete self-possession. His agreeable qualities and natural talents rendered him an especial favourite with his father, who thought so highly of his capabilities as to have sometimes said, "If I had not been Chancellor, William Henry might."

The family vault at Kingston* was now complete. On the 13th of this month of July, Lady Eldon's remains were removed to it; and on the following morning those of William Henry were laid there.

On the 26th of July, and on the 7th of August, with reference to Lord Brougham's bill, for abolishing Chancery Sinecures and increasing the Chancellor's retiring pension from 4000*l.* to 5000*l.* a-year in consideration of the patronage thus superseded,

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* See Chap. LIV., July 22nd, 1831.

Lord Eldon briefly vindicated his own conduct in the distribution of the patronage of the Great Seal, and objected to the haste with which so extensive a change was pressed forward.

This is the statute 2 & 3 Will. 4. c. 111.

Lord Eldon to Lord Stowell.

(Post-mark August 1st, 1832.)

"I do not *think* I shall be able to persuade myself to go down to Parliament again. God knows I have strength little enough left, to be able to afford wasting any portion of it in an attendance utterly, absolutely, and hopelessly useless. Uneasiness of mind, produced by observing *what* is there going on, and *how*, weighs me down more than I can endure, and I rather think that I shall not again think of enduring it."

Lord Eldon to Lord Stowell. — (Extract.)

(August 14th, 1832.) "Tuesday.

"I am going to accompany, in the beginning of next week, my daughter Fanny, who is in a state of much weakness, and her three children, down to the Rectory at Corfe Castle, which is close to my house at Encombe, where, of course, I shall stay for some time; and what I am to do with myself after that some time is elapsed, I do not at present know. I had thoughts of seeing Eldon, in the county of Durham, but in the state of things there, a noted Anti-reformer cannot, I apprehend, safely appear, or at least prudently. It is thirty years and upwards since I have seen it; and if this year I cannot see it, I am satisfied that I never shall be able to see it."

"Ever most affectionately yours,

"ELDON."

On the afternoon of the 16th of August his Majesty, in person, prorogued the Parliament, it being understood that, as soon as the registrations under the Reform Act could be completed, a dissolution would take place, to afford the opportunity of electing a reformed House of Commons.

In the beginning of October, Lord Eldon fulfilled that desire of visiting his estate in Durham, which he had glanced at in his letter to Lord Stowell of the 14th of August, and which he had afterwards, in a letter to his grandson (September 10th), described as "the craving anxiety I have to go to North." He was accompanied thither by Mr. William Villiers Surtees, the late Lady Eldon's nephew. "His spirits," says his great niece Miss Forster, whose mother, Mrs. Forster, was the daughter of his brother Henry, "were much affected, every object he saw recalling the recollection of his wife, whom he had recently lost, and other members of his family also dead, and in consequence he was very anxious it should not be known that he was in the North, that he might remain completely private. He kindly invited my mother and myself to join him; but his letters were not even franked, and the answers went to him under cover to Mr. William Surtees. He was deeply affected the first time of seeing my mother; but, after much private confidential conversation, he became more composed.

"When I was first introduced to him he received me gravely, but very kindly, telling me he was glad to see me, for many reasons, and for the sake of many who were gone.— The following dialogue at dinner amused me:—

"Lord Eldon.—'It was astonishing to see the 'immense flocks of geese that we passed on our road 'down, all going up to London. Surtees, how many 'did they say there were in that one flock?'

"Mr. W. Surtees. — 'Eight hundred, my Lord.'

"Mrs. Forster.—'I wonder we have any geese left 'in the North.'

“ Lord Eldon.—‘ Oh, Surtees and I were in the carriage—they could not drive *us* off.’ ”

Another little dialogue :—

“ Lord Eldon.—‘ Mr. Surtees, you and I know the ‘ value of a pinch of snuff.’

“ Mr. W. Surtees.—‘ Yes, my Lord, I am sure I ‘ do, for I even go so far as to lay my box on the ‘ pillow, that I may have a pinch the first thing in ‘ the morning.’

“ Lord Eldon.—‘ Oh, is that all ? I beat you hollow. ‘ I never wake in the night without taking a pinch. ‘ Mary, do you know the origin of my taking snuff ? ‘ I was obliged to undergo an operation in the nose, ‘ and the surgeon who performed it told me, that if I ‘ would take three pinches of a particular kind of ‘ snuff the first thing every morning, I should have no ‘ return of that complaint. I took the snuff, and have ‘ had no return.’

“ He made his head quarters at Rusheyford. Among those of his acquaintance who there paid their respects to him, was an ancient friend from Newcastle, who pressed him to gratify the old inhabitants of that town and its neighbourhood by a visit. ‘ Ay,’ answered Lord Eldon, ‘ I know my fellow-townsmen complain of my not coming to see them ; but how can I pass that bridge ?’ The bridge looked upon the Sandhill, the site of the house where Lady Eldon had lived with her parents. His eyes filled with tears at these recollections, and, after a pause, he exclaimed, ‘ Poor Bessy ! if ever there was an angel on earth, she was.’ He then referred to his own progress, and the course of their married life, and added, ‘ The only reparation which one man can make to another for running away with his daughter is to be exemplary in his conduct to her.' "

In his way homeward, he gave the following account of himself in a letter to his grandson: —

(Postmark, Salisbury;
Oct. 17th, 1832.)

"Dear Encombe,

"I have got here, Salisbury,—and go on to Encombe tomorrow morning. The gout has been exceedingly troublesome, and often exceedingly painful.

"But I am grateful for my sufferings — they have worked out in my mind a better opinion of the remains of strength than I have long had, and I have not that sad languor, which has certainly made me a burthen to myself and I feel must have occasionally given uneasiness to others. When I get to Encombe, I must have recourse to the bed and the sofa."

Quitting Encombe in a few days for London, he remained in town three or four weeks for medical advice, and during that visit was a good deal distressed by the loss of his dog Pincher, whom, however, after a few days, he recovered. The particulars of Pincher's adventure, as they were related by Lord Eldon, will be found among Miss Forster's recollections of October 1836. On the 3rd of December, Parliament was dissolved for the purpose of a new election under the Reform Bill: and Lord Eldon, who divided his time in this November and December between Encombe and Hamilton Place, wrote thus to his grandson from London, before he went into Dorsetshire for the close of the year: —

Lord Eldon to Lord Encombe.—(Extract.)

"December 23rd, 1832.

"This I am sure of, as I can be of anything not positively certain, that, if you have not a House of Commons that will assist in suppressing, by necessary laws, popular unions, popular unions will, at no great distance of time, suppress that House, and the House of Lords too; and the third and higher branch of the Legislature into the bargain. I hope England and Englishmen are not so debased and degenerated as to let such things take place without a fight, in a battle field, for it. Your demagogues and popular unionists will, as it should seem, have such a fight, if the Legislature objects to what they mean further to propose."

Among the districts, which did themselves credit in that season of excitement, was the southern division of his native county. He thus congratulates the Lady of the Conservative Member: —

Lord Eldon to Mrs. Bell. — (Extract.)

" Dear Mrs. Bell, (About the end of Dec. 1832.)

" The heart of an old gentleman of eighty-two is so overjoyed by the intelligence you have been so kind as to send to him, that he is quite renovated in youth, health, and spirits; and he thinks that if he had you for his partner, he could go down a country dance, as in days of yore, to the tune of Bonny Northumberland."

CHAPTER LVII.

1833.

RE-ESTABLISHMENT OF LORD ELDON'S HEALTH. — LETTER FROM HIM TO LORD ENCOMBE. — HOUSE OF LORDS: COERCION BILL: BILL FOR AMENDMENT OF LAW: IRISH CHURCH TEMPORALITIES BILL. LETTER OF LORD ELDON TO LORD STOWELL. — RESTORATION BY LORD ELDON OF KINGSTON CHAPEL. — LETTERS FROM HIM TO LADY F. J. BANKES. — ENLISTMENT OF BRITISH SUBJECTS IN THE WARS OF PORTUGAL. — RECEPTION OF LORD ELDON AT THE MIDDLE TEMPLE. — LETTERS TO LADY F. J. BANKES. — POLITICAL UNIONS: LOCAL JURISDICTIONS: 147TH CLAUSE OF IRISH TEMPORALITIES BILL. — MS. OF LORD ELDON UPON THE APPLICATION OF CHURCH PROPERTY TO LAY PURPOSES. — LETTERS OF LORD ELDON TO LADY F. J. BANKES: HIS SPEECHES AGAINST IRISH CHURCH TEMPORALITIES BILL, — AND PORTUGUESE ENLISTMENTS. — SECOND VISIT OF LORD ELDON TO DURHAM: MRS. FORSTER'S RECOLLECTIONS OF IT. — LORD ELDON A WITNESS IN DICAS *v.* BROUGHAM. — LETTER OF LORD ELDON TO COMMISSARY GORDON.

THE new year, 1833, began well for Lord Eldon: it was now, for the first time since his Lady's death, that an improvement began to show itself in his health. The following extract announces it: and it proceeded so favourably, that when he was at Encombe in the autumn of the same year, he was able again to walk to the top of his favourite hills.

Lord Eldon to Lord Encombe. — (Extract.)

(January 13th, 1833.)

"I think myself, certainly, somewhat better than I have been. I can take a walk, and a longer walk than, six weeks ago, I had any hope I should ever be able to take. * * * * As I could not manage for Christmas Day my usual bit of dinner for the poor parishioners — on this Sunday, to the amount of above 600 persons, men, women, and children, they dine upon rations of beef and plum pudding, which I supply. And the cry of 'Ashley for ever!' 'Bankes for ever!' 'Ponsonby for ever!' 'Calcraft for ever!' are all drowned in the universal cry of 'Beef and Plum Pudding for ever!'" * * * *

About the end of January, Lord Eldon returned to London, and on the 5th of February (1833), the business of the first Parliament elected under the Reform Act was begun by a speech from the King in person: in which, among other topics requiring the attention of Parliament, the lawless state of the Irish people was emphatically noticed. Accordingly the Ministers, without loss of time, introduced a measure for the suppression of disturbances in Ireland, which has been generally known by the name of the Coercion Bill. It was first opened in the House of Lords, where Earl Grey, on the 15th of February, explained its purport and outline.

The Earl of Eldon, in supporting the bill, expressed his deep regret for the cause which had called it forth, and his desire to know for how long a period it was to remain in operation. "No doubt," said he, "it must continue in force as long as its cause: I should wish it even to continue a little longer, — that is (and this, I think, will not be found without its proper use in repressing agitation), that is, I say, until justice be done on all persons who shall have been convicted during its operation, so that its close may not be marked by the impunity of some who may have been guilty under it. The Noble Earl will remember an instance of the kind, which occurred at the expiry of the Proclamation Act, when a party who had pleaded guilty, and whose case had stood over, escaped unpunished."

The defendant, to whom Lord Eldon here alluded, was Mr. O'Connell, who, in the early part of the year 1831, had thus slipped through the hands of the Irish Government.

Earl Grey replied that if, after further consideration of the subject, any provision should appear to him to be requisite for the purpose indicated, he should be happy to avail himself of Lord Eldon's aid.

Lord Eldon to Lady F. J. Bankes. — (Extract.)

"Saturday; (Feb. 16th, 1833).

"We had last night a longish and interesting debate on, or rather two or three speeches upon, Lord Grey's bill for putting an *end* to Irish *disturbances,* otherwise properly called Irish rebellion. The measures are severe: whether they will be effectual, and do not come much too late, is another question. The Duke of Wellington made a good speech — but neither he nor Grey could very easily, and certainly not at all, get out of the scrape, by the Roman relief bill being the cause of all the disorders and miseries, now to be checked and remedied, if possible: — and measures not explained were hinted at, but which, I fear, will turn out to be intentions to pay the Roman Catholic clergy out of some parts of the annihilated Protestant Archbishops' and Bishops' revenues. I said a few words, which, from the faintness of my voice, I think were not heard — for not one such word did I utter as the 'Morning Post' reports — so that I bid adieu now to speaking in Parliament."

When, on the 26th of March, the House of Lords were in Committee on the bill for the amendment of the law, now the statute 3 & 4 Will. 4. c. 42,

Lord Eldon objected to the provision for enabling the Judges to make alterations in the rules of pleading. Instead of the old practice, of the Lord Chancellor calling on the Judges to state their doubts as to the practice of their Courts, and then, if he thought proper, undertaking to recommend the alterations to Parliament, it was now proposed — and that, too, in a bill which stated doubts as to the power of the

Judges — that they should make rules in their own Courts; which rules were to have authority for five years, and then to become the law. Why, this was legislating; and this bill gave into the hands of the Judges the power to make laws in very important cases. The practice of the Courts was a part of the law of the land, affecting property and even personal liberty, and he protested, on the part of the subject, against giving to Judges this extensive legislative power.

Toward the conclusion of the Committee's sitting,

> Lord Eldon expressed his satisfaction that the arbitration clause had been withdrawn, as in his opinion it was of the most injurious and oppressive character. For fifty years, as a Barrister, a Judge, and a Chancellor, he had been acquiring experience, and *that* forbade him ever to consent to *compel* suitors to submit to an arbitration.

During this month of March, a bill, for the retrenchment of the Irish Church Temporalities, which was one of the measures recommended to Parliament in the King's speech, had been originated by Ministers in the House of Commons. Against that bill, when it was afterwards discussed in the House of Lords, on the 19th and 30th of July, the Earl of Eldon will be found to have exerted his utmost energy. Meanwhile, on the 1st of April, when a petition was presented to the Peers against the Ministerial plan, he took occasion to say,

> He would oppose it, to the last of his life and the utmost of his power. He thought it adverse to every established principle of Government, and full of spoliation. His life had been spent in the defence of the Established Church, and he should be guilty of a base dereliction of all his former principles if he did not resist so abominable and infamous a measure.

At a later hour of the same evening, a debate took place upon the Irish Coercion Bill, which had come back from the House of Commons with some amendments rendering it less summary. These relaxations being recommended by Earl Grey,

Lord Eldon questioned whether the Ministers, by admitting that the bill would answer its purposes without the powers which they had originally asked for, were not abandoning that ground of urgent danger and imperious necessity, on which alone any suspension of constitutional rights ought to proceed, and the assertion of which, on the responsibility of Ministers, had been his own motive for supporting them in this measure. He must press the Noble Earl for an answer to the question, whether the measure was necessary *now?*

Earl Grey answered that the necessity for it still existed, and maintained that the proposed amendments might be adopted, without any departure from the principle declared by Lord Eldon.

The amendments were adopted accordingly. This measure became the statute 3 & 4 Will. 4. c. 4.

Lord Wynford had introduced a bill to diminish expense and delay in suits at law, of which the principal object was to enable plaintiffs and defendants to examine each other on interrogatories. Lord Lyndhurst moved and carried the rejection of the measure, —Lord Eldon concurring with him, and grounding his objection mainly upon the inexpediency of confounding the principles of legal with those of equitable procedure.

Lord Eldon to Lord Stowell. — (Extract.)

(Post-mark, April 19th, 1833.)

"The Chancellor must think the Privy Council, as heretofore attended, has been a sad tribunal: for he has brought a bill into the House of Lords, in which he makes all the Judges, and even the principal Commissioner of the new Court of Bankruptcy, additional members of a Committee of Privy Councillors, to hear ecclesiastical appeals, prize court appeals, &c. &c. Either he or I am becoming very foolish.

"He has brought in another bill for establishing permanent Courts in the different counties, with serjeants or barristers of ten years standing, constantly sitting with juries, in like manner as the Judges when they go the Spring and Summer circuit throughout the kingdom,—each county, as it were, having through the year a county Westminster Hall of its own. This odd scheme is at first to be tried only in two or three counties, to see how it answers. I hope he won't select, as his trial or experiment counties, Durham or Dorset; perhaps you would not wish him to take Berks or Gloucestershire. But there are no Lords attending the House upon such matters, and he will have his own way."

Lord Eldon, who had visited Encombe in February and at Easter, repaired thither again at Whitsuntide. On this last occasion, Lord and Lady Encombe were with him from Saturday the 25th of May to the Wednesday following. This was Lady Encombe's first visit there: and on Sunday the 26th, the newly-built chapel at Kingston, which is a chapel of ease for the parish of Corfe Castle, was opened for divine service, the solemnity being attended by Lord Eldon, Lord and Lady Encombe, and other members of the family. The old chapel had been a rude, ill-constructed building, the walls of which, though thick and clumsy, were by no means impervious to damp. The present edifice, which is of a plain Gothic character, was designed by Mr. Repton, and executed under his superintendance, at the expense of Lord Eldon, by virtue of a faculty from the Ecclesiastical Court.

Lord Eldon to Lady F. J. Bankes.—Extract.

(Written from London, not dated.)

"The Radicals here, and at Birmingham, &c. &c. &c., seem to be forming resolutions to pay no taxes whatever, till the sovereign will of their high mightinesses 'the people,' for a repeal of the window and house taxes, shall be obeyed by Parliament. This is treason; but no step is taken to treat it as treason was heretofore treated.

"Report says *some* of the Ministers, when they were beaten in a vote a few nights ago, offered their resignations, and that their Master said, '*No*—if *any* go, *all* shall go. *All* remained.

"There is a report, believed by some (*I* know not what to make of it) that there are movements towards forming a coalition Ministry of Whigs and Tories. If it is so—if we are to have the old hated junction, such as Lord North and Fox heretofore made, and which was followed by public detestation—I shall endeavour to enjoy the blessings of a perfectly retired private life.

"Of Leopold in Belgium, it is said the Roman Catholics there expect him to turn Catholic, or turn out."

The neutrality declared by the British Crown, respecting the contest then proceeding in Portugal, had been extensively violated by enlistments of British subjects in the service of one and the other of the contending parties; and, the matter being brought before the House of Lords on the 3rd of June, by a motion of the Duke of Wellington for an address to the King to enforce the observance of this neutrality by his subjects,

Lord Eldon said that enlistments, in breach of a neutrality which his Majesty had enjoined by a proclamation, were contrary to the express law of the land: and maintained it to have been the bounden duty of the Government, as soon as they became cognisant of what was going on, to put a stop to proceedings which he characterised as a gross violation of the common law.

The Duke's motion was carried against Ministers by a majority of 79 against 69.

The following report is abridged from the "Morning Post" of June 7th, 1833: —

"Yesterday being the grand day in Trinity Term at the Middle Temple, on which it is usual for the Judges and other distinguished members of the Society to dine in the Hall, the Earl of Eldon, who has not been present on this occasion for several years, dined at the Bench table. The venerable Earl was in excellent health and spirits. In the course of the evening he proposed as a toast, 'The Bar;' and shortly afterwards an intimation was made to the Bench, that the Bar then present were desirous of testifying their respect for the distinguished member of their Society and of the profession who had that day gratified them by his presence. 'The health of the Earl of Eldon' was then drunk with an unexampled enthusiasm. The Hall rang with acclamations, Bench, Bar, and students appearing to vie with each other in their manifestations of respect.

"The Earl of Eldon rose, evidently under the influence of considerable emotion, to return thanks. He observed that he could not but feel deeply sensible of the honour, or he would rather say the kind feeling, which the Bar had just shown towards him, when he called to mind that a period of half a century had elapsed since he first became a member of that Society. Long, he trusted, might the Bar continue to maintain that high, and honourable, and independent character, which was essential to the pure administration of justice, and which, he would take leave to say, was one of the main sources of the prosperity which this country had hitherto enjoyed. So long as the profession maintained that high character, he was sure that the people of this country would always look to Westminster Hall for the maintainance of their just rights; and, looking to Westminster Hall, it is impossible, said the Noble Earl, turning towards the window of the Middle Temple Hall, which is decorated with the armorial bearings of Lords Clarendon, Somers, Talbot, Hardwicke, Ashburton, Kenyon, Tenterden, &c., that they can ever forget the Middle Temple. The venerable Earl was, at the conclusion of his speech, and on retiring from the Hall, greeted with enthusiastic and continued cheering by the whole Society.

"We believe this is the only instance in which the health of an individual, other than the King or Queen, has been drunk at any of the regular Term dinners by this Society."

Lord Eldon to Lady F. J. Bankes. — (Extract.)

"Friday; (June 7th, 1833).

"I yesterday, being much pressed so to do, dined at the Middle Temple, at the Benchers' anniversary dinner. It was right that I should conquer, if I could, my great reluctance to every thing of that sort, and I was repaid for my struggle to conquer that reluctance, by my reception. All the younger members of the Society dined, as well as the old ones, the Benchers; and, as I walked down the great Hall, in which we dined, there was a general sort of acclamation of kindness from them all, which cheered an old gentleman."

The 8th of June was the last day on which he ever sate judicially as a Privy Councillor. It was in a Committee of the Privy Council, upon the very peculiar case of Drax and Grosvenor.

Lord Eldon to Lady F. J. Bankes. — (Extract.)

"Sunday; (June 16th, 1833).

"The Whig and Radical newspapers are doing all they can to carry the Church Bill against the Church in the House of Lords, and to recommend, if that cannot be accomplished, the destruction of the House of Lords itself, either by direct dissolution of it by the force of the people, or by indirect dissolution of it by swamping it with a creation of a sufficiently numerous body of new Peers.

"Of dinners, and attempts of speeches, I have had more than enough. The dinners I cannot digest: of speeches I can make none to my own satisfaction,—or without regretting that I attempt to make any—sometimes sorely regretting it. I will, however, do what I can when the Church Bill comes. When that is done, I am done: my character requires that I should become a private man: I am sure my peace of mind does. How I happen to be so well as I am in health, though weak, I cannot tell."

A question being put on the 17th to Lord Grey, upon the subject of Political Unions,

Lord Eldon pressed upon the Government the duty of employing the law to put down these combinations, and to suppress the inflammatory and seditious libels which had been circulated for the last two years. If Ministers had acted as they ought to have done with respect to the riots and burnings at Nottingham, those which occurred at Bristol three months afterwards would have been prevented. He might now be allowed to ask Lord Grey, whether the "good sense" of the country had experimentally justified his confidence?

On the 24th, Lord Eldon spoke, and divided the House, but for that time without success, against the Local Jurisdiction Bill. In the following month another stand was made against it, and it was then defeated. Of the first struggle, Lord Eldon writes thus: —

Lord Eldon to Lady F. J. Bankes.

"June 25th, (1833).

"I went down yesterday to denounce a most abominable law bill of the Chancellor's: spoke as strongly against it as an old lawyer's mind and body could enable him to speak, and moved to put off the bill for six months. *His* friends brought together a majority against me, — those, — many, — who ought to have been *my* friends, to many of whom I had been a friend indeed in past life, would not take the trouble to come, or to stay, — and I was beaten; a thing I don't relish much, and the less because the measure I opposed is, I think, one of the most objectionable I have ever seen proposed to Parliament. I shall attend on the day when a third reading of it will be proposed, vote against it, and record my opinions and objections in a protest. That done, I shall attend no more, except when the Church Reform Bill comes to us, as to which, I think, nobody is acting discreetly and prudently on either side. I know I am gone by, and can do no good; but I will not, in so very important a matter, shrink from making an attempt, however feeble or useless it may be, to do my duty."

In the month of June, the Ministers conducting the Irish Church Temporalities Bill through the House of Commons, abandoned in Committee the 147th clause of it, which proposed the application to temporal purposes of funds to be obtained from ecclesiastical property. The following paper, of which the original was found in the hand-writing of Lord Eldon, appears, from the reference to that clause, to have been written shortly before the abandonment of it, that is, in May or June 1833.

"It seems difficult to maintain, upon attentively considering all these matters, that the perpetual establishment of the Protestant religion in England, and the perpetual established Protestant Presbyterian religion in Scotland, were not intended to be mutual and united provisions, for the maintenance of Protestantism, and for the support and preservation of the respective governments, discipline, and rights of those respective Protestant churches, their ministers, and clergy, and fences respectively against the inroads of Popery in either part of the United Kingdom of Great Britain.

"It seems therefore that the question which has been lately agitated, as to a Church Reform Bill, may be as aptly said to be a breach, to an important extent, with the antecedent compact with the Protestant Legislature of Scotland, as it has been represented to be with the Protestant Legislature of Ireland, and a breach of good faith alike to both.

"It is undoubtedly., too, matter of mighty weight, if what has by some been argued can be maintained, viz. 'that the King's oath or solemn declarations, being required by Parliament, may cease to be requisite, if the Houses of Parliament tender for his consent a measure not consistent with those which it should seem to appear he had in the most solemn manner engaged—even by the solemnity of oaths—to maintain and preserve.'

"How would such a proposition have been received if, immediately after the Union of Scotland, forming the Kingdom of Great Britain, the very measures had taken place again, which the people of Scotland had taken the most pains to prevent, and placed the Sovereign under the most awful engagements to prevent? If the majority of the English Lords and Commons had voted, in each of their Houses, what would have done their utmost to destroy, wholly or partly, the Scotch Protestant Presbyterian government, its Church, its discipline and government, or any of its rights, or any part of its property?

"Notwithstanding what any reputedly great lawyer* may have stated, as to the obligation of the Sovereign's oath being removed by the act of the Parliament, it must be recollected that the act of the two Houses, till more is done, is not an Act of Parliament. The act of each House amounts only to advice:—and, after that advice is given, the consent must be conscientiously given before there can be any Act of Parliament, and it is to be hoped that the time is gone by when even an Archbishop could advise a Sovereign† that his private conscience must give way to something called a public conscience;—advice unfortunately which was followed, and the Monarch's attention to which embittered his last moments, and rendered, according to his own dying declaration, an unjust sentence‡, what Providence might have permitted to be pronounced against himself; because, disregarding the dictates of his private conscience, he had acted according to what he had been persuaded to think, — that what was termed his public conscience had justified him in sanctioning an unjust sentence against one of his subjects. It has often been observed, that stating extreme cases does not assist sound argument; but on the other hand it cannot be denied, that *what is* sound reasoning may frequently be shown by putting extreme cases.

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* This is believed to refer to Lord Brougham.

† This alludes to the advice given by the Archbishop of York to Charles I, upon Strafford's attainder.

‡ That is, rendered 'an unjust sentence, upon himself, what Providence might 'well permit by way of retribution against himself. The King's words, on the scaffold, were these:—"God forbid I should be so ill a Christian, as not to say God's judgments are just upon me: many times he doth pay justice by an unjust sentence—that is ordinary. I will only say this, that an unjust sentence that I suffered to take effect, is punished now by an unjust sentence upon me."—*Howell's State Trials*, p. 1138.

"If, upon the very day after (in any King or Queen's reign) the Sovereign in the beginning of the week had taken the Coronation oath, a House of Commons had passed a bill to destroy Episcopacy, or to remove all Bishops from the House of Lords, or to place in that House Bishops professing the Roman Catholic and not the Protestant faith, could it possibly have been conceded, in deference to the opinion or reasoning of any great or reputedly great lawyers, that these proceedings in the two Houses justified the future act of the King's consent, though these proceedings could never be an act of a Parliament till that consent was given, and the oath prescribed by an antecedent Act of Parliament, properly understood, was intended to prevent his individual consent being given to such inchoate proceedings, not yet Acts of Parliament? How could the Legislature, which enabled the Members of each House of Parliament to pass bills not under the sanction of their oaths, be understood, because *they* did not act under the sacred obligations of oath to tender to the King or Queen the bills they had passed, *therefore* to sanction his consent to those bills without the careful exercise of his own judgment regulated by the obligations of *his* oath, as he should himself consider what those obligations required of *him*? To say therefore that what is called an Act of Parliament, (but which, previous to the Sovereign's consent constituting it an Act of Parliament, is no Act of Parliament,) justifies a construction of the King's oath, whether that construction is or not conformable to the real meaning of the oath, seems to be a proposition not reconcilable to common sense, sound reason, or religious considerations.

"Let us now suppose that, immediately after the Act for establishing the Treaty of Union between England and Scotland was passed, under the sanction and obligations of the two preceding Acts of England and Scotland, and the King's oath, a bill had been brought into the House of Commons and passed in that House, by which ten Episcopal Sees of the Church of England were proposed to be abolished—the obligation upon the King's subjects in general to maintain the fabrics of the National Established Episcopal Church had been destroyed, and that obligation had been thrown wholly on the revenues of the Clergy—and by which, as in the 147th proposed clause, the revenues should be declared to be at the disposal of Parliament for any state or civil purposes as temporal property—and that a bill of such a nature had also been passed by the House of Lords, and was then tendered to the Sovereign for his "*le Roi le veut*"—could the King, laying aside all consideration of the sacred and solemn obligations laid upon his conscience by the treaty and the Acts which had been passed before the treating parties would treat, look at what had passed in the two Houses as an Act of Parliament freeing him from those obligations which both English and Scotch Parliaments had imposed by parliamentary enactments, and from the solemn oath which was by many supposed to bind his conscience? If he *was* to be liberated from that oath by an Act of Parliament, the united acts of the *two Houses created no such Act;* and his conscientious obligations, if such were imposed upon him before an Act passed, could not very rationally be said, even by a Lord Chancellor, to be duly observed by his creating it himself,—by his Royal assent to the bill which never could be an Act of Parliament, till he had, *before there could be* an Act of Parliament, adopted that very step on his part which was stated in argument by some to be sanctified *by* an Act of Parliament.

"If the Lieges of Scotland would not trust, as it is apparent that they would not place their trust in, the Houses of Parliament, in one of which they were only to have 45 Members and in the other only 16, never was there folly so completely foolish,—if they did not deem it to be clear that they had no security but in the conscience of the Sovereign, inducing him to withhold his assent to the advice given by the Houses, and refusing to consider that advice, according to the argument above mentioned,—as dispensing with what they could not but consider as their main security, and which the natives of Scotland never could have thought that he could consider as an Act of Parliament, till he had, under the influence of his own conscience by the Royal assent, created and made it an Act of Parliament. It seems clear therefore that the true question would be this—and this only—whether his own conscience would allow him, consistently with his oath, to give his assent to the measure, which they advised him, following that consent and advice, to consent to. If the Sovereign's conscience upon his own examination of what that conscience required of him, did not satisfy him that he might conscientiously give his Royal assent, the solemn expression of that consent on his part could not, as some thought, be justified by the mere acts of two Houses, which, without his assent, could create no Act of Parliament."

Lord Eldon to Lady F. J. Bankes.

"Friday evening; (July 12th, 1833).

"I have had a levee of politicians with me all day long—and, as I shall set out early for my brother's to-morrow morning, I begin my Saturday's letter to-day, leaving a place for a few but very warm affectionate words, after I receive my daily comfort in a letter from you by to-morrow's post. I hope I have done some good to the cause of the Church to-day, changing the opinions of some who were likely to think wrong, and fixing aright the opinions of some of those sad poor fellows who waver much. I set myself down therefore to-day, as having gained some ground in a good cause.

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"I have had two Bishops with me this morning for a considerable time—one of them, the Irish Bishop of Clonfert: I was particularly happy to see him. In the year, I think, 1771, he spoke his beautiful prize poem on the Love of our Country, in the theatre at Oxford, on the same day in which I spoke my prize essay on the Advantages and Disadvantages of Foreign

Travel. This meeting delighted me. Our Sovereign Lord has been much talked of in common conversation and report (and *that* has kept up people's hopes and spirits) as totally disapproving the Church Bill. Alas! Lord Grey told us publicly yesterday in the House that he had his Majesty's authority to declare his consent to it. The bill is not so bad as it was at first; but it is a sad bad bill."

Speaking afterwards to Miss Forster of the Irish Bishop's visit, Lord Eldon said:—

"He told me of what I am sure I had forgotten, that I was a very modest boy, *a very modest boy indeed:* I am sure he said *that;* I think he added, 'You have become a sad *impudent one since:*' of this last I am not sure. 'I,' said he, 'recited my prize poem first; and when I came out, you hesitated so much about going in, that I actually had to take you by the shoulders and push you in."

Lord Eldon to Lady F. J. Bankes.—(Extract.)

"Tuesday; (July 16th, 1833).

"Our news, domestic, is very bad. The Duke of Wellington, and a lot of adherents who act with him, mean to vote for, and not against the Church Reform Bill to-morrow on the second reading. The few of us who can't consent to Church spoliation will vote, from our hearts, against it; but beaten we must be, as this most unexpected change has taken place. What is to become of all that is worth preserving is known only to Him who ruleth in Heaven. I shall fight for my old principles to the last.

"The fatigues of the debate, which may be long, and perhaps night and night, to me will be, probably, very fatiguing indeed; but I shall nurse myself in the day-time, and keep in as good order as I can. In some part of the proceedings I shall speak."

Lord Eldon was mistaken in his expectation, that the Duke of Wellington would vote for the second reading of the bill. His Grace did indeed recommend that it should be allowed to go into Committee, but pointed out parts of it which he regarded as objectionable, and went out of the House without voting. The discussion in this stage of it occupied three nights, on the last of which, the 19th of July, the adjourned debate was begun by Lord Eldon.

He said that, conscious of the approach of that time when, in the course of nature, his existence must close, he felt himself, upon his oath and his honour, imperatively called on to occupy their Lordships' attention for some short space, while he stated the grounds of his opposition to this measure; and he trusted their Lordships would receive his sincere acknowledgments for the uniform respect and attention which they had bestowed upon him during the very long time for which he had sate upon the Woolsack. It was a fallacy to talk of the Irish Church as something distinct from the English: from the time of the legislative union between the two countries, there was ONE UNITED CHURCH of England and Ireland. He urged the objections founded on the King's Coronation oath, and on the engagement with Ireland and Scotland at the respective times of the two unions. With respect to the union of England and Ireland, the King, when he gave his consent to that Act, was called on by the most solemn rites and ceremonies, not merely to say, "*Le Roi le veut,*" but he was also called on to say, in the most solemn manner, "So help me God! I will maintain this Act." And so help him God, he would not consent to any Act of Parliament that would disturb or affect the interests of that Establishment, to which he vowed his constant and eternal attachment. He must be allowed to say, whatever consequences it might expose him to, — for he was driven to it by what had passed in the House, —that, if the Great Seals had been in his hands at the present time, which would have bound him to tender his humble advice on this subject to his Majesty, and if the King had declined accepting that advice which in his conscience he might have given, so help him that God before whose tribunal he had soon to appear, he would, with all dutiful respect, have said, "Sire, it is my duty to assume that you understand that which I think your duty better than I do; the advice I have given is from my soul and conscience what I ought to give you; I am bound to defer to your judgment, but I cannot entangle myself with the consequences which, in my after-life, must attach to other advice, and I cannot go out of this room without resigning into your hands the seals of office, which compel me to tender you my advice. I have given my Sovereign my best advice, according to my humble judgment, and as it is not approved of, it is my duty to resign." Could their Lordships suppose, knowing as they must what was going on in this country, that this measure was the limit to which they would be obliged to go if they acceded to it? The present bill destroyed the church-rates as now collected in Ireland; and every man who read the newspapers must perceive, that the moment was not far distant when no more Church-rates could be collected in England. The principles of the Constitution called on every man to come forward in support of the Church. He conceived that it should be taken as an axiom, that every man ought to be a member of some Church or other; for if the obligations of religion were loosened, then every man might be told to think as he pleased on religion, and what, he would ask, could be expected to result from such a licence? He admitted that there ought to be a free toleration in religion, because religion was a question between a man's conscience and his God; but *that* toleration ought not to be allowed to disturb the established religion of the country, or to bring it into such contempt as to prove its destruction. If God gave him sufficient length of life, he would enter his protest against the bill, being determined that his countrymen should know he was no party to such a proceeding: and he was determined not to be self-convicted of having neglected his duty.*

The Portuguese enlistment question was again before the House of Lords on the 30th of July, when the part taken in the debate by the Duke of Sussex, in reference to Captain Napier, having appeared to favour the principle of foreign enlistment, contrary to the King's proclamation,

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* No protest of Lord Eldon against this bill appears to have been put upon the Journals.

Lord Eldon said he could not admit that the illustrious Duke, or any other Peer, was at liberty, by countenancing the conduct of that gallant individual in this respect, to assist in counteracting his Majesty's proclamation.

The Duke of Sussex intimated that there were Peers ready enough to enlist men on the *opposite* side of the Portuguese contest.

Lord Londonderry called on the illustrious Duke to name those Peers.

Lord Eldon, amidst cries of "Order," told the illustrious Duke, that whoever might be pleased to countenance acts of disobedience to the Sovereign, he would, from first to last, resist any such attempt.

Soon afterwards, on the same evening, Lord Grey moved the third reading of the Irish Church Temporalities Bill. After a few words in its support from Lord Headfort,

Lord Eldon addressed the House against it. He said he founded himself on the experience of a long life, in affirming that the prosperity of this country was inseparably interwoven with the maintenance of an established religion. The Protestant religion he considered to be the best form of religion; and he had no more doubt than he had of his own existence, now drawing very near to a close, that the present bill was calculated to undermine the established religion of this country. He hoped the argument, that this was a measure calculated to strengthen the Church by its liberality, would not prevail in that House. He held religious belief to be a thing between God and a man's own conscience; but it must at the same time be allowed that a man, having acquired the liberty of his own conscience, was not therefore permitted to disturb the national peace and the national conscience. His first objection to this bill was, that it removed the payment of the vestry-cess, and placed it upon a different class of persons. He objected to this, as taking from the country the liability to give that support to the Church which, he contended, every man was bound to give. Whatever might be the opinion of their Lordships as to the religious feeling of the community, they might rely upon it that if the principle of non-payment of rates, because of a difference in religious belief, were once established, many would be found to leave the Church for the purpose of evading the burthen. The union between the two countries never would have taken place if this measure could have been foreseen. The Protestants of Ireland never would have given their consent to the measure of the Union, if they could have anticipated such an attack upon the Established Protestant Church. This bill was a direct fraud upon the Protestants of Ireland, — he could give it no other name. His next objection to the bill was, that it laid a tax upon the clergy. He could not help looking back to the bill of 1829, the Catholic Relief Bill, as the cause of the present measure. Having regard to the present state of Ireland, and especially to the number of Roman Catholic Bishops in that country, he must add, that he would rather increase than diminish the number of Protestant Bishops. He would say nothing upon the subject of the Coronation oath; but he declared that he would rather forego his existence than support a bill which, in his opinion, was calculated to destroy the Established Church of Ireland.

The bill was passed that night, by a majority of 135 against 81; and now stands on the Statute Book as the 3 & 4 Will. 4. c. 37.

In the August of this year, after a short visit to Encombe, he again visited his estate in Durham, and again suffered great depression of spirits from the associations connected with the place.

"I have had," said he to Mrs. Forster, who joined him in the North, "a vault made at the church which I built at Encombe. There rests my wife, there rests poor William Henry, and there I intend to rest myself; and it cannot be long ere I do so."

At intervals, however, his constitutional gaiety returned. In one of these cheerful moods, on the eve of his return into Dorsetshire, he said to Mrs. Forster,—

"I wish, Mary, you could be with us to-night at Boroughbridge, to have some conversation with the landlady. I was very much amused with her last year. When I arrived, I sent for her, and asked, 'if she knew me,' and she said 'No, she did not.'—'I answered, I was very much surprised at that, for the last time I had seen her, she was three years old.'—'Then, Sir,' said she, 'how is it possible I should know you?'—'Why,' I answered, 'I did not know, but she must be very forgetful.' Then I asked her if she remembered to have heard of a gentleman who used to come there to fish, a Sir John Scott.' 'Sir,' said she, 'I hear great things of him: he became a Member of Parliament; then he became a Lord, and I don't know what.' So I told her I was this same Sir John Scott. Oh, she did not know what to do; she wanted me immediately to go into the largest room in the house. That I declined, for I told her I preferred the comfortable small one I was in. But when I went to bed, I found she had taken care to put me in a *large enough room.* Then she came to ask 'if she might tell her husband?'—Well, I said that if I caused a mystery between husband and wife, I did not know what might happen, therefore I would allow her to tell him who I was, and away she went. The next morning, before I set off, she came to ask me to go into the garden with her, for she was sure she had something I would like to see. So she took me to a bed of flowers, dahlias, and very superb they were, and I admired them very much. Then she begged and entreated I would step into the stable with her, where she had a remarkably fine bull. This I could not undertake; to go and see a bull was what I rather would be excused doing; so I returned to my sitting-room, and there I had not sat long, before I saw the bull paraded past the window. Our poor landlady was so sure I would like to see this bull, that she actually had caused it to be brought before my window; and upon my word I must say it was a most noble animal.—Oh, we shall have some fun with her to-night."

From Rusheyford he returned to Dorsetshire, where Lord and Lady Encombe passed the greater part of September with him. At the end of that month he visited London, and took Earley Court on his way back to Dorsetshire. Of his visit there he writes thus to his grandson after his return home:—

(Franked October 8th, 1833.)

"I found myself obliged to be with my brother* early on Friday morning. I staid that day with him and the next. I was so distressed with the state I found him in as to mental health, (though, as to bodily health, uncommonly stout,) that I felt myself compelled to leave Earley Court on the Saturday evening, as I really could not bear the state I was in. I got here on Monday night."

Lord and Lady Encombe spent the month of November with him in Dorsetshire: and as Parliament, which had been prorogued on the 29th of August, was not to re-assemble till the 4th of February 1834, Lord

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* Lord Stowell.

Eldon might have enjoyed a long interval of quiet in the country, but for the importunity of a Mr. Dicas, an attorney, who insisted on bringing up the venerable Earl, as a witness on the trial of an action commenced by Mr. Dicas himself against Lord Chancellor Brougham, for false imprisonment, under a warrant issued by Lord Brougham when sitting in Bankruptcy. It was on the question how far such a warrant was consistent with law and practice, that Mr. Dicas sought to obtain Lord Eldon's evidence: Lord Eldon, to whom he sent a subpœna, explained very fully, by letter, that independently of the annoyance to him in point both of convenience and of health, his attendance for the object proposed could be of no avail in the action, the question of legality being solely for the Judge; but the plaintiff persisted in requiring his presence, and he came to London accordingly. The action was tried on the 3rd of December. When Lord Eldon appeared on the Bench, which is the usual place for Peers attending a Court of Justice, the whole Bar respectfully rose, with one accord, from their seats. When he stood up to be sworn, the Bar again simultaneously rose. He was interrogated by Mr. Platt, the leading counsel for the plaintiff, about his recollection of certain points of practice as they had been in his own Chancellorship. He stated that he could not distinctly recollect these points at such a distance of time; but that he could not hope to have so conducted the business of his Court, as not to have made some mistakes in a period of almost five-and-twenty years during which he had held the Great Seal; though he was not aware of any particular instance in which errors had been committed by him. At the close of his examination in chief, he added, "I am not a willing witness. I "thought it my duty to comply when I was summoned by a subpœna; but at my age, and the distance I was at, I should have hardly been willing "to come, unless I had considered it to be a duty "between man and man." It fell to Sir John, now Lord, Campbell, at that time Solicitor-General, who led for the defendant the then Lord Chancellor, to cross-examine Lord Eldon. The learned Solicitor began by saying, "Allow me, in the name of the "Bar, to express the satisfaction we all have in "the honour of seeing your Lordship:" and then proceeded with his cross-examination. When it concluded, Lord Eldon, who had given his evidence in a low tone of voice, retired: and as he withdrew, the Bar again expressed their reverence, by rising from their seats as before. This was, probably, the only case in which it ever happened that a Lord Chancellor (Lord Brougham), was defendant; an ex-Lord Chancellor (Lord Eldon), a witness; and another ex-Lord Chancellor (Lord Lyndhurst), the Judge.

Lord Eldon to Mr. Commissary Gordon.—(Extract.)

"My dear Sir,

"I thank you most sincerely for your very kind expression of your very kind wishes respecting my health. My dear Sir, advanced nearly thirteen years beyond the three score years and ten, after which the best authority tells us all is but labour and sorrow, I have little to hope; and, precious parts of my family having fallen before me and gone to their rest, I have little anxiety as to more than exemption from severe bodily pain.

"My brother's bodily health continues very good, but I fear his memory is affected.

"When I look at the state of the country, and see, or think I see, the Monarchy, — the Peerage, — the owners of property, sinking, — I fear inevitably sinking, — under the rule and domination of Democrats, I have no comfort in looking forward.

* * * * * *

"Man can do nothing for us now that will be effectual, unless that Power which can still the raging of the sea should interpose to protect the country against the madness of the people.

"I shall give most particular attention to what your letter represents respecting the marriage cases and divorces in Scotland, and the Birtwhistle case; — I doubt without much utility. Years have passed since I was thought a lawyer, — at least if I can judge by the indisposition manifest to listen to my humble sentiments on law subjects.

"Wishing you—heartily wishing you—many, many happy new years, I remain, dear Sir, with the sincerest regard and respect,

"Yours,
"ELDON."

"Dec. 18th, 1833.
"Encombe, Dorset."

CHAPTER LVIII.

1834.

CHANCELLORSHIP OF OXFORD: VACATED BY DEATH OF LORD GRENVILLE: UNANIMOUSLY CONFERRED ON DUKE OF WELLINGTON.— LETTERS OF LORD ELDON TO LADY F. J. BANKES.— HOUSE OF LORDS: TRADES' UNION PROCESSIONS: DISFRANCHISEMENT OF LIVERPOOL FREEMEN.—LETTERS TO LADY F. J. BANKES.—SCHISMS IN THE CABINET: MELBOURNE MINISTRY.—LETTERS OF LORD ELDON TO LORD ENCOMBE AND LADY F. J. BANKES.—IRISH CHURCH COMMISSION.—LETTERS TO LADY F. J. BANKES: OXFORD INSTALLATION: HONOURS TO LORD ELDON IN THE THEATRE.—HOUSE OF LORDS: CHANCELLOR'S ABSENCE. —LETTERS TO LADY F. J. BANKES.—GREAT WESTERN RAILWAY BILL, LAST TIME OF LORD ELDON'S SPEAKING IN THE HOUSE OF LORDS.—THIRD VISIT OF LORD ELDON TO DURHAM: MISS FORSTER'S RECOLLECTIONS OF IT.—FREEDOM OF EXETER.—PURCHASE OF SHIRLEY.—LETTERS OF LORD ELDON TO LORD ENCOMBE AND MISS FORSTER.—SUDDEN DISPLACEMENT OF MELBOURNE MINISTRY.—LETTERS OF LORD ELDON TO LORD ENCOMBE AND LADY F. J. BANKES.—INVITATION TO LORD ENCOMBE TO BECOME A CANDIDATE FOR SOUTH DURHAM, DECLINED. —FORMATION OF SIR R. PEEL'S FIRST MINISTRY.

THE declining health of Lord Grenville had made it probable that a vacancy would soon occur in the Chancellorship of the University of Oxford; and some of Lord Eldon's old supporters had suggested to him, through Lord Sidmouth, that he should then allow himself to be brought forward as a candidate. His motives in declining this invitation are thus stated by the present Earl:—

"When, at different illnesses of Lord Grenville, the same subject had been broached to Lord Eldon, after his final resignation of the Great Seal, I can well remember his naming it to me as a thing for which he had grown too old; that should he thus late in life be elected to this office, it could, under all the circumstances, add comparatively but little honour to one who had held the Great Seal for nearly a quarter of a century; that however unlikely any opposition might appear, yet should any, by the remotest chance, start up, it would at all events be a great drawback from the honour; that the bare possibility of a defeat, which might form the closing scene of his public life, would be such a catastrophe, that scarcely anything could justify him in risking it.

" Lord Eldon having stated his views to Lord Sidmouth, in answer to Lord Sidmouth's letter of Nov. 16th, 1833, the latter replies on Dec. 2nd: —

" 'Your determination, I reluctantly own, appears to me to be right; certain it is that such would have been mine, under similar circumstances.' "

Lord Eldon to Lady F. J. Bankes. — (Extract.)

" Sunday, (latter part of January 1834.)

" We believe here that Grey has tendered his resignation, on account of differences in the Cabinet — but the lovers of good places and their emoluments, like other lovers, know how to settle quarrels which they wish had never begun.

" I take it that the Duke of Wellington will certainly be the Chancellor of Oxford. It is singular that the warmest supporters of the author of the Roman Catholic bill seem to be those who, on account of that anti-Protestant measure, threw out Peel from his situation of M. P."

Lord Grenville's death had taken place on the 12th of January, and on the 29th the Duke of Wellington, having accepted the invitation of the University, was elected without a competitor.

Lord Eldon to Lady F. J. Bankes. — (Extract.)

"Saturday, (Feb. 8th, 1834.)

"The new Chancellor of the University of Oxford gave his dinner yesterday, upon being sworn into office. Being asked as High Steward, I thought it right to go. There were a great many Heads of the Colleges from Oxford. Those, who did not come from that place, were the Chancellor of Cambridge, the Duke of Gloucester; the Chancellor of Dublin, the Duke of Cumberland; the High Steward of Oxford, Lord Eldon; the Archbishop of Canterbury; the Duke of Beaufort; Lord Talbot; Lord Sidmouth; the two members for the University, and one or two others. The Duke of Wellington proposed my health in a very handsome speech, and I addressed the company in an answer of thanks, in a way I hope tolerably good, and very well received. The attendance was fatiguing, but to-day I am not the worse for it. I was invited as High Steward to attend the great ceremonial in June at Oxford; but that would be too much for me, and I should have no pleasure in it."

In his next letter to Lady Frances, on the 10th of February, he adds,

"The members of the different Colleges, present at the "dinner, were very respectful and kind to me."

The King opened the Session of Parliament on the 4th of February. This Session was the last in which Lord Eldon's strength permitted him to take any part in debate. A meeting of the Trades' Unions of the metropolis had been held in Copenhagen Fields on the 21st of April, for the purpose of proceeding in procession to the office of the Home Department, with a petition in favour of certain offenders who had been convicted at the Dorchester Assizes of administering unlawful oaths. The march of the petitioners, who were said to be 30,000 strong, through the streets of London, collected vast crowds and created much alarm. Lord Melbourne, who was then Home Secretary, gave directions that their petition should not be received while those disquieting circumstances continued: and the persons entrusted with it were obliged to retire from the Home Office and disperse their party. On the 24th the petition was presented by a small deputation, and laid before the King in the usual way. The Marquis of Londonderry, on the 28th, adverted to this matter in the House of Lords; and, Lord Melbourne having intimated a general opinion, with respect to the habitual Sunday marches of the Trades' Unions, that the interference of the Government with these processions would not be legal so long as the persons taking part in them should commit no direct violation of the laws,

Lord Eldon said he could not refrain from offering a few observations to their Lordships on this subject. It seemed to him as if they were losing sight of all the settled principles on which a country ought to be governed. The multitude assembled the other day, whose aspect was that of force, could not but weaken the Government; and he was of opinion, that the assembling of large numbers in this menacing manner was in itself an offence. If such an opinion had been stated from the mouths of the Judges of England, it would have been of infinite use: it could not have failed to produce a most important effect. He agreed, that if the subjects of the country lawfully met to discuss their grievances, their numbers would not make such a meeting illegal; but if they met,—as their Lordships were told (in those sources of authority which they had the misfortune to refer to every morning of their lives,) these men did meet, — their purpose was unlawful. Their Lordships were told, that meetings had been held to refuse the payment of certain taxes. They should, perhaps, soon be told, that meetings had been held to refuse the payment of all taxes whatever. He asserted, that these meetings superseded the authority of the Government. The people had a right to a discussion of their grievances; but that any class of men should join together to declare that they would disobey the law, was, he asserted, an offence *against* the law. Neither had any men a right to meet together to constrain others to adopt a particular course in their business. He would illustrate his meaning by a case.—He had a right, as an individual, to say, "I live in a certain "street, and I will not employ a single tradesman in that "street;" but he should have no right to come down to that House, and say to every Noble Lord in it, "Let us agree "not to deal with a single tradesman in that particular street;" for that would be a conspiracy, and all who joined in it would be liable to be punished for a conspiracy. He hoped their Lordships would not allow those meetings. He solemnly declared it to be his opinion—and he considered, from the high judicial station which he had had the honour of holding, he would not be justifiable in withholding that opinion,—that such meetings were illegal, and, if not opposed, would be attended with mischief.

A bill was before the House of Lords in this Session, by which it was proposed to disfranchise the whole body of the freemen of Liverpool on account of the corruption of some among them. The measure seems to have been ultimately abandoned; but while it was in progress, on the 1st of May, a discussion arose upon it, in the course of which,

Lord Eldon begged the attention of the House to the object of this bill. It seemed to have been found out in 1834 that some freemen of Liverpool, previous to the passing of the Reform Bill, had been corrupt, and because those few freemen had been corrupt, they were called on to disfranchise the whole of the freemen of Liverpool, innocent as well as guilty. That such a bill had ever before been submitted to

Parliament, he did not believe. He was an old man, and it might perhaps be said was too fond of the institutions of his country; but he recollected that Lord Mansfield, when Chief Justice of the Court of King's Bench, said, that all new laws on the subject of bribery were useless, because the common law was sufficient to overtake those guilty of that offence. But upon that, Charles James Fox said, that he could not make up his mind to disfranchise those guilty of bribery, unless an act was passed to point out to the people, that for bribery they should be liable to the punishment of disfranchisement, in addition to what they were liable to by the common law. In the same manner, he himself was unable to make up his mind to punish all parties for the offence of a few. He could not consent to confound the innocent with the guilty.

Lord Eldon to Lady F. J. Bankes.

"Tuesday (May 27th, 1834.)

"The Ministers were beaten in the House of Commons last night by a majority of 61, upon a very important point; but go on they do and will. This is quite a new way in our history of public conduct.

"Our Sovereign Lord, we are told, is about to have a review at Windsor, one proceeding in which is to be an attack upon Windsor Castle, in the nature of a siege, by the troops who are to capture it. This is a very dangerous piece of folly.

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"Now I'll give you an anecdote of our friend Pincher. There being below stairs a good many beetles, it was thought expedient by Smith to get a hedgehog, in order to have them destroyed. Pinch did not like this new visitor — and was for attacking it; but it proved rather a disagreeable morsel, from its quills, in Pinch's mouth; and by management he has got very intimate with it, and they commune in a friendly manner, and Pinch is very happy with his new acquaintance.

"I have been very many hours in Parliament lately: it relieves me, so far, that I am forced out of all thoughts about myself for the time being. More to-morrow. I am so urged about appearing at the installation at Oxford, that I begin to believe it next to impossible to escape altogether."

Lord Eldon to Lady F. J. Bankes. — (Extract.)

(May 28th, 1834.)

"I hear that the Ministers, as to some of whom we heard so positively that they had resigned, have made up their quarrel. The fact seems to be that they have by their measures, fallen so far short of doing all that the radicals expected of them, that, if any of them quitted, they could not tell how to get persons to supply their places: — and, on the other hand, nobody, as a new Ministry, if they all resigned, could undertake the Government. The present Parliament would not support new Ministers, as being altogether or nearly altogether republicans: and new Ministers now, 10*l.* householders being so numerous, could not get a House of Commons better than the deplorably bad one we now have. There is nothing for the country but the efficacy of our prayers, 'O save the country, Heaven!' — if our prayers could be of any avail. How different in the time of poor Pitt, whose memory will be celebrated by a Pitt Club to-morrow! In discharge of my pledge, given near thirty years ago, that I would attend the annual commemoration as long as I lived, I shall endeavour to attend."

Lord Eldon had been misinformed as to the termination of the ministerial differences mentioned in the foregoing letter. On the day before he wrote it, the final resignations of four of the Ministers were already given in. Mr. Ward, the present member for Sheffield, then representing St. Alban's, had announced a motion for the 27th of May, by which he was to propose the passing of a resolution of the House of Commons, that the temporal possessions of the Protestant Church in Ireland (reduced as they had been by the Temporalities Bill of the preceding year) still exceeded the spiritual wants of the people, and that the distribution of Church property was a matter for the discretion of Parliament. This avowal of an intention to seize, or, as it was called, *to appropriate*, Church property for Civil purposes, gave alarm to the more scrupulous section of the Cabinet: and on the day of the motion, Lord Stanley, Sir James Graham, Lord Ripon, and the Duke of Richmond, unable to acquiesce in the principle of "*appropriation*," besought the King's permission to quit their offices. They were succeeded respectively by Mr. Spring Rice, Lord Auckland, Lord Carlisle, and Lord Conyngham, the last taking no seat in the Cabinet. The Ministry, so modified, went on till July, when certain circumstances connected with the administration of Irish affairs induced the resignation of Earl Grey, the only Cabinet Minister resolutely determined on maintaining the authority of the law in Ireland. The rest of the Whig Cabinet, though thrown into temporary confusion by the loss of their leader, soon settled themselves again; and, being gathered under the wings of Lord Melbourne, went quietly through the remainder of the Session.

Lord Eldon fulfilled the intention expressed by him in the foregoing letter, of attending the anniversary of the Pitt Club on the 29th; but it was for the last time. His strength was now no longer equal to that sort of exertion. He appears to have been present at every anniversary from 1808 to 1834, both included, with the exception of the years 1810 and 1815. There was no commemoration in 1830, King George IV. being then in his last illness.

On the 4th of June, Lord Eldon's birth-day, his family dined with him. Lord Encombe had a note from him the day before, saying, "Dear Encombe,

"To be as fashionable as I can be, — a thing I have always aimed at, — I trouble you to say that I shall dine on the 4th at half past six instead of six.

"Yours most affectionately,
"ELDON."

Lord Eldon to Lady F. J. Bankes.

"June 5th (1834).

"I wish I deserved half the attention which was shown to me yesterday on account of my birth-day, personally and by letters from different parts of the country. I suppose I may have enemies — that there may be some who don't think I deserve to have a good opinion entertained of me; but I have the satisfaction of knowing that, take the community through, I could almost confidently assert that you would with difficulty find another individual who receives, even from his enemies, so many demonstrations of kindness and regard.

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"Pincher's duty. — He treats his play-fellow with much tenderness, and brings him — the hedge-hog — up stairs in his mouth to show him to me."

It had been resolved by the Government, in order to lay a foundation for further measures on the subject of the Irish Church, to issue a Commission, for inquiring into the proportion between the endowments and the spiritual wants of all the parishes in Ireland, and for ascertaining the numbers of the Protestant and Roman Catholic population in each. This Commission being made the subject of a motion by Lord Wicklow in the House of Lords,

Lord Eldon desired to say, that, if there were any of their Lordships, or any portion of his countrymen, who regarded his opinion as an old lawyer, he did there, in his place, solemnly deny that the State had any right to appropriate the property of the Church at all. If there were any who would value his opinions when he was gone from amongst them, he now left it behind him as his solemn and deliberate declaration, that no lawyer on earth could prove that, according to any known principle of law, this alleged surplus could be appropriated to any other than Church purposes."

Extracts of Letters from Lord Eldon to Lady F. J. Bankes.

"Saturday (June 7th, 1834).

"We had a very interesting debate in the House of Lords last night. The nature of the motion, which was made by Lord Wicklow in a very good speech, naturally introduced, as combatants upon the floor, the Ministers who have remained in, and the Ministers who have gone out. They talked of their feelings of kindness for each other, as if they had been sweethearts parted. Lord Grey talked as if he meant that the *Protestant* Church of Ireland should divide good things with *another* church in Ireland. The ex-ministers insisted against any of the good things of the Church, if there was ever so much too much belonging to it, being taken from it. Grey insisted that the *State* had a right to dispose of what the Church had too much, *as the State thought proper.* There was little opportunity for an old lawyer to speak. I only therefore said, that I absolutely denied the *right* — right and arbitrary power are two very different things, — but I totally denied that, according to law, the State had any such *right.* I did not know whether (if, when hereafter the great debate upon this important subject should come on, I should not be personally present) the House would do me the honour to remember that, as an old lawyer, I in my place denied the right of the State to exercise any such power of disposing of Church property as was claimed; but that I was determined to take the chance of its being recollected.

"To-morrow evening I go part of the way to Oxford."

"Sunday (June 8th, 1834).

"From Maidenhead to-morrow morning I go to Oxford, as the Duke of Wellington and I are, on that day, to dine with the Vice-Chancellor, at his house in University College, where he gives us both beds, and without more company than ourselves, I believe. I am forced to move a little forward to-day, on account of the difficulty of getting horses for the whole journey, if the whole is tried to-morrow. The earnest desire expressed to me by so many of the University, that I should at least make my appearance there on this occasion, and the reasons, of a public nature and with reference to public interests, are so strong for my doing so, that repairing there has appeared to me *unavoidable;* but, after I have been there enough to satisfy the reasons for my going at all, I shall quit, and not stay the business throughout.

"What you will have seen in the papers is true enough, that I could not be heard the other night in the House of Lords. Indeed I made no effort to be heard, but if I had, I should not have succeeded; for, though my head is as capable of meditating upon weighty subjects as it ever was, and my memory as retentive as it ever was, my voice has become (as at my time of life is natural, I believe always the case) weaker, and yet, I assure you, because I know it will be a comfort so to assure you, that my general strength and health are a great deal improved: indeed, no attention to it has been spared by my medical adviser."

In a letter to Lady Frances, written on the 15th of June, the day of his return to London from the Oxford installation, he gives this account of his own movements.

"Sunday (June 15th, 1834; written from London).

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"In my way to Oxford I met with nothing to make my journey difficult, till I arrived at Henley, where I found carriages of all descriptions stopped for want of horses, — ladies and gentlemen and noblemen strolling about, till those horses that had been written for and promised should come back from the next stage towards Oxford, to which the poor horses had, poor fellows! taken two journeys in the course of the morning and back again, and should be ready to undertake a third. As I was to dine at the Vice-Chancellor's, a Henley man, not an innkeeper, accommodated me with a pair of his own, and I got to Benson, and from thence to

Oxford, with another pair from the inn at Benson, but so tired, poor fellows! that it was most distressing to see them in my progress. I did arrive, however, at the Vice-Chancellor's in time: and, a little after, arrived also at the Vice-chancellor's the Duke of Wellington. He, as well as I, was obliged to make his entrance into Oxford with only a pair of poor miserably tired hack post-horses. We were both lodged, throughout the whole time, at the Vice-Chancellor's house, and our parties in it were comfortably small.

"The next morning was a fine morning, and the procession from University College to the Theatre was all on foot, through countless multitudes in the streets, cheering and huzzaing as we passed along. In this procession were almost all the doctors in divinity and law, except the bishops; and in this, as there generally are in such spectacles, some very well dressed pickpockets, one of whom contrived to empty the pockets of Lady Sidmouth's maid, who unfortunately had a good deal of cash in it, — I believe about fifteen pounds. This genteel pickpocket was dressed in academical gown and robes.

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"The dinner that day was given, and a very splendid dinner it was, in University College. I *conjecture* that we had thirty Peers or more at our banquet. The hall of University College has been put, by repairs, and ornaments, and embellishments, in a state of perfect beauty. We had some good speeches after dinner, and I did, in that way, as well as I could. The company sat long, and afterwards most of them went to the concert, but I did not adventure so to do."

The admission of Doctors in the Theatre, which had begun on the Tuesday, was continued on the Wednesday. The following are the particulars of the ceremonial as far as it regarded Lord Eldon and his grandson.—Lord Eldon, by virtue of his office of High Steward, was seated in the Theatre on the right hand of the Chancellor. When it came to Lord Encombe's turn to be presented for receiving his

Doctor's degree, there was great applause, and the looks of all were turned to Lord Eldon, whose eyes were fixed upon his grandson. Dr. Phillimore as Law Professor, taking Lord Encombe by the hand, presented him to the Chancellor and Convocation with these words:—

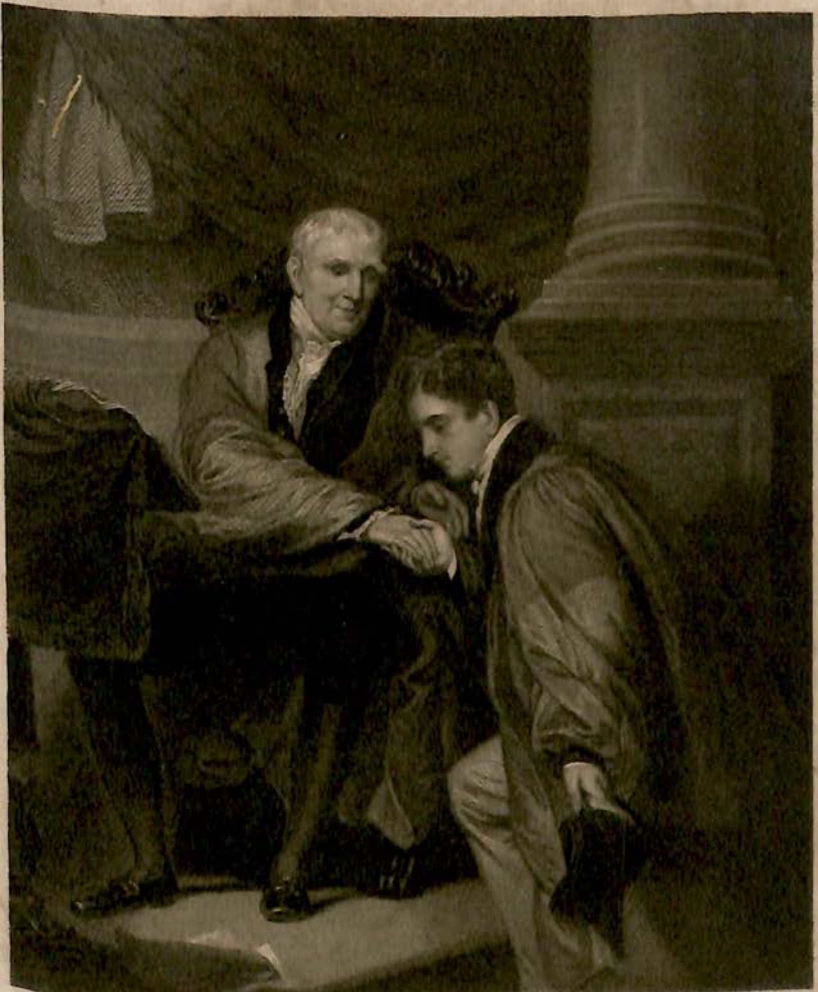
"Insignissime Cancellarie, vosque egregii Procuratores, præsento vobis prænobilem virum, Johannem Scott, Vice-Comitem Encombe, è Collegio Novo, Artium Magistrum, et Honoratissimi Comitis de Eldon ——" This name had scarcely passed the Professor's lips, when there arose a universal shout of loud and enthusiastic cheering. Lord Eldon had stood up when his grandson approached, but was quite overcome by this burst of kind feeling toward himself and his family. Leaning his arm on the cushion of his desk, he covered his face. When the first applause had subsided, the Professor resumed—"Comitis de Eldon"—but a second burst drowned his voice for several minutes longer. Dr. Phillimore found that it would be quite impossible to get on if he mentioned this name again, so when silence was obtained he continued—"unicum Nepotem, ut admittatur ad gradum Doctoris in Jure Civili, honoris causâ."

The Duke of Wellington, as Chancellor, rising and taking off his cap, according to the usage, pronounced the formal admission: "Vir honoratissime, ego, auctoritate meâ et totius Universitatis, admitto te ad gradum Doctoris in Jure Civili, honoris causâ."—Upon which Lord Encombe, advancing, ascended the steps of the Chancellor's chair, to receive his hand. The cordiality of the Duke's manner in welcoming his young friend drew fresh cheers from the assembly: and when Lord Encombe, instead of proceeding at once to his place among the Doctors, turned aside, and taking Lord Eldon's hand, bowed himself respectfully and affectionately upon it, the expressions of sympathy with the young nobleman were repeated by the spectators more warmly still, in approbation of the intelligible acknowledgment thus given by him, of the large measure in which he felt himself indebted to his grandfather for so popular a reception. The aged Earl, after gazing on his grandson for some moments with overflowing eyes, again sank his head upon the desk before him amid continuing peals of applause, and covered his face with his hands from the view of the enthusiastic multitude. During the cheers, the Duke of Cumberland reached across Lord Eldon to take Lord Encombe's hand. Several other noblemen then offered their greetings, and the Duke of Wellington was so occupied in watching the heir of his ancient friend, that the Professor had actually begun the presentation of the next candidate, when he perceived the Chancellor's back still turned to him; upon which he stopped, until he could recover the Duke's attention.

Lord Eldon to Lady F. J. Bankes.—(Extract.)

"Wednesday night (June 11th, 1834).

"This has been a very gratifying day — I have been quite overcome by the treatment I received in the Theatre to-day; it almost authorizes me to say that I have spent a life, so as to gain a degree of estimation, which I had no idea I possessed. It affected me extremely."



Painted by H.P. Briggs Esqr

Engraved by E. Finden

THE EARL OF ELDON, D.C.L.

High Steward of the University of Oxford.

AND HIS GRANDSON, VISCOUNT ENCOMBE.

Lord Eldon to Lady F. J. Bankes.—(Extract.)

"Thursday (June 12th, 1834).

"It is quite overpowering to have met with the congratulations of multitudes, great multitudes, here, upon the reception of my name in the Theatre yesterday over and over again. When Encombe had his degree, the manner in which the Duke of Wellington received and handed him up to me, the people calling out 'Eldon,' was affecting beyond any thing I ever met."

"I will tell you," said Lord Eldon some time afterwards to Mrs. Forster, "what charmed me very much when I left the Theatre, and was trying to get to my carriage:—one man in the crowd shouted out, 'There is old Eldon—cheer him, for he never ratted!' I was very much delighted, for I never did rat. I will not say I have been right through life—I may have been wrong—but I will say that I have been consistent."

Lord Eldon left Oxford on the Friday, and, taking Earley Court in his way home, passed Friday evening and Saturday there. Lady Sidmouth, writing to Mrs. Farrer, says, "My uncle spent two delightful "days here, much to my father's satisfaction." On the Sunday, the 15th, Lord Eldon got back to Hamilton Place and wrote that letter to Lady Frances Bankes, of which an extract has already been given. Some further passages of it are now subjoined, in which his narrative is continued, with reference to Wednesday the 11th and to the remainder of his stay at Oxford.

"During the remainder of my stay at Oxford I moved, wherever and whenever I went, with the Duke in his carriage. The ceremonials* began in the Theatre in the course of the morning, and a large bevy of Doctors in Civil Law were created: some most loudly cheered, some slightly, and some hardly at all, — the multitude in the Theatre quite uproarious, — 'Down with all Whig pickpockets, Greys, &c. &c. &c.!' I am told the scene among the multitude before we got there was the most amusing possible. After we reached the Theatre, the whole ceremonial was conducted with the greatest respect to us; and poor Lord Eldon had a large share of it. We dined at Christ Church.

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* Of the Wednesday.

"The next day we went to church, and heard a charity sermon for the benefit of the Radcliffe Infirmary, preached by the Bishop of Oxford. The sermon was a good one, and the collection for the charity, I was told, was exactly double what it was when Grenville was installed as Chancellor. We all dined at St. John's College, were most sumptuously entertained, and had some good speeches.

"The morning when I left Oxford the Fellows of the College desired to wait upon me in a body to take their leave, which they did in a most gratifying manner.

"Deeply as I have been affected by what has passed, and much as I was afraid I should be fatigued, I really think I am the better for it."

The Fellows here mentioned were those of University College, where he had been educated.

The last Parliamentary discussion, in which Lord Eldon took any prominent part, was originated by himself. The Judges had been summoned to attend the House of Lords on a certain day, and when they came, not the Chancellor, nor the Deputy Speaker, nor any Law Lord, was present to receive them.

Lord Eldon, on the 20th of June, complained of this omission, as contravening both the forms and the dignity of the House. He announced his intention to move that the opinions of the judges should never be delivered in that House, except in the presence of some one of the Lords named in the Commission of Deputy Speaker.

The Lord Chancellor explained the accident by which this inconvenience had been incurred.

Lord Eldon said that he himself, when obliged to be absent, had always taken care to communicate with the individual who was to sit in his stead.

Several other Peers having spoken, and there appearing to be a very general feeling, as expressed by the Duke of Cumberland, that such an occurrence would never again take place, —

Lord Eldon said, that after what had fallen from several Noble Lords, he should decline making his motion.

Lord Eldon to Lady F. J. Bankes. — (Extract.)

"Saturday (June 28th, 1834).

"It pleased the Great Ruler of the world on this day, three years ago, to take unto himself my poor dear Bessy, the partner of my life for so many, many long years. His will be done! He will pardon sorrow and grief, — but not complaint. I will not complain. In sorrow I may grieve. — I wrote this last sentence half an hour ago. I am relieved by writing it, and by reflection upon my duty."

Of the Poor Law Amendment Bill, Lord Eldon writes thus: —

Lord Eldon to Lady F. J. Bankes. — (Extract.)

"Wednesday (July 23rd, 1834).

"Heaven grant that this new mode of treating the poor and needy may not bring forth those fruits, which I for one anticipate. They are to proceed in this hazardous measure to-night: but 'unto their assembly mine honour shall not be united.'" *

The name of Lord Eldon occurs only three times in the Parliamentary Reports after the 20th of June in this year, and on none of these occasions did his speech exceed a few words. On the last of them, July the 25th, an intimation having been thrown out by Lord Wharncliffe that the Lords, in rejecting the Great Western Railway Bill under the circumstances which attended that rejection, had taken a course likely to injure them in the confidence of the country,

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* "Unto their assembly, mine honour, be not thou united." — *Genesis*, chap. xlix. v. 6.

Lord Eldon begged to acquaint the Noble Lord that he had given his vote upon conscientious grounds, and that he was not to be told such a vote would be injurious to their Lordships in the estimation of the people.

Lord Wharncliffe explained, that having voted conscientiously himself, he did not mean to charge any one of their Lordships with having voted less conscientiously.

Lord Eldon was very popular with children. The following letter is from the grandfather in his eighty-fourth year, to the grandson in his fifth, a little boy of Lady Frances's, named Eldon Surtees Bankes.

"My very dear little Eldon, July 10th, 1834.

"Mamma sent me your pretty letter to grandpapa. I was very much pleased with it indeed, and I send you my most affectionate love in return for it. I understand that you put the letters together, and that Mamma copied the letters so put together in her own letter to me.

"I hope now soon to see you, and your dear brother and dear sister soon. Be sure you give my love to them, and accept it yourself.

"I am theirs and yours most affectionately,

"ELDON."

"Pincher sends you all his love."

In the beginning of August, Lord Eldon paid another visit to his Durham estate; and Miss Forster, who was with him there, says, "In 1834 my venerable uncle was remarkably cheerful, and appeared to have great pleasure in seeing various relations and friends. Our party consisted, in addition to my dear uncle Lord Eldon, of my brother (Mr. Forster), Mr. and Mrs. Burdon-Sanderson, and Mr. and Mrs. James Manisty. All passed a couple of days with us at Rusheyford and at Eldon. 'Well, Ellen,' said Lord Eldon to Miss Forster, 'when you and I meet in the Newcastle assembly rooms, we will open the ball.' —Ellen: 'Yes, uncle; remember you are engaged to me.'—Lord Eldon: 'I will not forget; and we will call for "Jack's alive,"—that will be the proper tune—"Jack's alive."' "

On his return to Encombe, about the middle of August, he meditated a visit to Lord Rolle, at Bicton, in Devonshire; but this design, becoming known, led to a plan for presenting him with the freedom of Exeter at a public meeting, to be followed by a dinner: and the result was, that being unwell and disinclined to appear unnecessarily in public, he thought it best to give up the Devonshire excursion altogether. The freedom, however, was unanimously voted and sent to him; and to the Mayor's letter, announcing this tribute of respect, he returned the following answer:—

"Sir, "September, 1834.

"I have had the honour to receive, upon my return home the evening before yesterday, the communications which have been made to me respecting the unanimous resolution in the chamber at Exeter, that the freedom of that loyal and most respectable city should be presented to me, in testimony of the high estimation in which the body regards what they are pleased to consider as a long, useful, public life.

"I deem it a very high honour to have received this testimony, which I humbly trust I have through a long and laborious life endeavoured to merit, by every effort in my power to secure for posterity those national blessings in

Church and State which I have ever thought to be the duty of all in this country to preserve unimpaired. Of the earnestness of my endeavours, nobody, I trust, can reasonably doubt. God grant, that, together with the united efforts of others, those endeavours may be successful.

"I have, &c. &c."

Lord Stowell's state of mind had become such that he hardly understood the passing events of the time. Lord Eldon's letter to him, announcing the birth of Lord Encombe's eldest daughter, is written with an evident distrust of Lord Stowell's power to apprehend it.

"My dear Brother, (Aug. 28th, 1834.)

"I learn by letter, that my grandson, Lord Encombe, — who is the only son, you know, of my deceased eldest son, poor John, whose beautiful epitaph you wrote, — has had a daughter born the other day — whose birth renders me a great-grandfather, a title that makes me of venerable years.

"Believe me, from my heart, dear brother,

"Yours most affectionately,

"ELDON."

Lord Encombe was now in treaty for the purchase of a residence at Shirley, near Croydon. He took possession in November, when Lord Eldon made him a present of the purchase-money for the property as it then stood.

Lord Eldon to Lord Encombe. — (Extract.)

"Dear Encombe, (Franked, Corfe Castle, Nov. 12th, 1834.)

"I now and then peep into my old school books. I find Tully abusing his countrymen, as heartily as I am grumbling at mine, for their ruinous practices and projects, to make the wealthy part of the people change places with the poorer orders, and to convince the latter that exchange is not robbery, though *all* is parted with on one side, and *nothing* on the other taken. I took up to church on Sunday a little old

Greek Testament, hoping to read in Greek when the clergyman was reading the second lesson in English, — having strong spectacles too; — but my eyes are so altered that I found they would not do, and that I must employ my ears only, for instruction of this sort."

Lord Eldon to Miss Forster. — (Extract.)

"Dear Ellen, "Corfe Castle, Nov. 14th, 1834.

"When I wrote to your dear mother, I at first intended to make it a joint letter to you and her. But, seeing that all the newspapers, the Newcastle papers among the rest, represented me to be of the tender age of *ninety*, I was afraid that she might suppose that there might be more of a flirtation between two young people than she might altogether approve. I leave it therefore to your good judgment, whether you will subject this little epistle to her perusal. That I am very fond of you, you must not dispute.

"I had a very dull journey from Rusheyford: how should it be otherwise? I had left those I liked to be with, and I had no company except that of an individual, now generally spoken of as 'Poor old Eldon.' Here I arrived, however, at last, and got home to my cottage, which, being situated in a deep valley, is not seen till you reach the door of the house. I remember Dr. Warren, when he once came here upon a medical visit, exclaimed, 'Well, I have got to your *den* at last!' In that den I have been pretty generally confined since I entered it; I am, however, as well as I can expect to be."

On the 10th of November in this year, 1834, the death of Earl Spencer, the father of Lord Althorp, withdrew the latter from the sphere of the House of Commons, where he had acted as Chancellor of the Exchequer and leader of the Government. Lord Melbourne, in consequence of that change, prepared to submit some new arrangements of office to the King, and presented himself on the 14th for the purpose of taking his Majesty's pleasure respecting them.

The King, most unexpectedly, declared his intention of referring the re-construction of his Ministry to the Duke of Wellington; who, being accordingly desired to wait upon his Majesty, recommended that the formation of the Government should be committed to Sir Robert Peel. Sir Robert Peel, then abroad, was instantly summoned home; and the Government, in the interim, went on provisionally under the Duke of Wellington.

Lord Eldon to Lord Encombe.—(Extract.)

"Sunday (Nov. 23rd, 1834; written at Encombe).

"To the moment I am writing, I have had no letter from those, who would heretofore have courted my advice or been civil enough to pretend to ask it."

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"Monday (Postscript).

"Since I wrote what precedes this I have had a very civil letter from the Duke of Wellington. It tells me nothing material; and, until Peel comes, it *could not* tell me anything material."

Shortly after writing thus, he says in a letter to Lady F. J. Bankes,

"The 'Standard' of yesterday contains, in an article from some other paper, that the intended arrangement for the Earl of Eldon has failed. No such arrangement could have failed, for no such was intended; and Lord Eldon is too old, and too wise, again to mingle in ministerial arrangements. I think nothing will be done, as to any such, with respect to anybody, till Peel comes home."

Lord Eldon to Lord Encombe.

(Written at Encombe; received Dec. 4th, 1834.)

"Dear Encombe,

"Though I have nothing to write about, I send my affections to you, Louisa, and Infantula.

"Here 'the stormy winds do blow' tremendously, and I really thought, in the last night, between the wind and the rain, the glass in my bed-room windows would have been demolished. I lost, however, no *panes;* but being kept awake through the night, and often getting out of bed, I lost my sleep: and to-day I have a return of the *pains*—in my back."

Lord Stowell's faculties were now decaying rapidly. Lord Sidmouth, in a letter to Lord Eldon of the same month, speaks of the invalid state of Lady Sidmouth, in whom, though not until a later period (April 26th 1842), the issue of Lord Stowell became extinct. He also refers to the general state of the country.

"12th December, 1834.

"The prospect is improving; but the political horizon is not yet clear; nor can it ever be what it once was. Your niece is at Earley Court:

'As one who, suffering all, yet suffers nothing.'

Her patience and equanimity are equal to her trials, which are indeed severe; but if they should be continued much longer, they must, I fear, break her down."

Lord Eldon to Lady F. J. Bankes.—(Extracts.)

"Christmas Day, 1834.

"You may most confidently believe me when I say you have had, and will have, the grateful feelings of everybody in the parish for the charities which you have shown in the matter of the schools and in other matters here: you deserve those grateful feelings, and what is really so fully deserved, believe me, will never be withheld from you.

* * * * * *

"Don't, my dear Fan, allow your spirits to be affected by any considerations about me. I say most conscientiously that if my life is,—as indeed I know, and have reason to be thankful that it is,—in any way dependent upon you, my way long to preserve it is to see you enjoying that degree of spirits, which, under all circumstances, denoting *your* reasonably good health, will bestow such health, with God's blessing, upon *me*. My reflections, since I came down here, upon what I have observed with reference to you, my dear Fan, have worked such a change in my health for the better, that we have now a very reasonable prospect of continuance of it, under Providence, for a time, of which there *was*, in my own judgment, very little prospect. You, under God's blessing, may prolong my life, even as long as the medical men comfortably told me it would be prolonged. God bless you — ever bless you — ever bless you."

The two great political parties had been anxiously preparing for the expected dissolution of Parliament, and a number of respectable and influential magistrates and clergymen of the Southern division of the county of Durham had solicited Lord Encombe to stand for that district. This he declined, in an obliging letter to Mr. Cartwright of Norton, through whom the invitation had been communicated.

Sir Robert Peel, who on the 9th of December had arrived in London and accepted the office of First Lord of the Treasury, completed the composition of his Ministry about the end of December. The Duke, Lord Aberdeen, and Mr. Goulburn, were the Secretaries of State respectively for the Foreign, the Colonial, and the Home Departments; Sir Henry Hardinge, Mr. Herries, and Mr. Alexander Baring, had seats in the Cabinet, the first as Secretary for Ireland, the second as Secretary at War, and the third as President of the Board of Trade; and Lord Lyndhurst was again Lord Chancellor.

CHAPTER LIX.

1835, 1836.

LETTER OF SIR R. PEEL TO LORD ELDON: DRAFT OF LORD ELDON'S ANSWER. — LETTERS FROM LORD ELDON TO LORD ENCOMBE AND LADY F. J. BANKES. — RESIGNATION OF SIR R. PEEL, AND RETURN OF MELBOURNE MINISTRY. — FOURTH VISIT OF LORD ELDON TO DURHAM: HIS ADVICE AGAINST RESIGNATIONS. — CORPORATION BILL: LETTER FROM LORD ELDON TO LORD ENCOMBE. — AUTUMN IN DORSETSHIRE: MONUMENTS AND INSCRIPTIONS. — LETTER OF LORD ELDON TO LORD KENYON: — TO LORD ENCOMBE. — LETTERS FROM LORD SIDMOUTH TO LORD ELDON: DEATH, MONUMENT, AND CHARACTER OF LORD STOWELL.

IN the formation of the Government, Sir Robert Peel felt, as did Lord Eldon himself, that from the great age of the venerable Earl, any tender of office to him would be an unmeaning compliment; but, as a mark of his respect, the First Minister communicated an outline of his own political views to Lord Eldon in a letter, of which some extracts are subjoined.

Sir Robert Peel to the Earl of Eldon.—(Extract.)

"Dear Lord Eldon, "Whitehall Gardens, Jan. 1st, 1835.

"Your long experience in public life and devotion to your public duties will, I hope, have found an excuse for me, if, under the circumstances under which I was called to England, and the incessant and most harassing occupation in which I have been since engaged both night and day, I have appeared deficient, through my silence, in that respect which I most sincerely entertain for you, and which, but for the circumstances to which I have referred, ought to have and would have dictated a much earlier communication to you on the subject of the position of public affairs, and the course which I proposed as the King's Minister to pursue.

"That course has been now sufficiently indicated by the public declarations which I have been called upon to make, and by the appointments which have taken place, on my advice, to the chief offices of the King's Government. It only remains for me, therefore, to apologise to you for a seeming inadvertence and inattention which would be wholly at variance with my real feelings, and to express an earnest hope that the Administration over which I preside will entitle itself by its acts to your support and confidence.

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"Believe me, my dear Lord, with the sincerest respect, and best wishes for your continued health and happiness,

"Most faithfully yours,
"ROBERT PEEL."

"The Right Hon.
"The Earl of Eldon, &c."

The rough draft of Lord Eldon's answer, found among his papers, is as follows: —

"Dear Sir Robert Peel, (Jan. 1835.)

"I don't delay acknowledging the receipt of your kind "letter, which, being directed to Encombe, did not reach "that place till after I had left it, and has been returned "from thence.

"If I forbear to enter into any statements respecting the "subjects mentioned in that letter, I might be thought dis-"respectful in delaying my acknowledgments for the kind-"ness and respect you have been pleased to express towards "me, — a delay which might not be thought sufficiently "apologised for, by observations which could only apply to "subjects which I understand you to have been already fully "determined upon."

Lord Eldon to Lord Encombe.—(Extract.)

(Franked, Jan. 21st, 1835.)

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"There is come out a print of Diogenes with his lanthorn searching the world for an honest man. He appears highly delighted in finding poor Lord Eldon, whose image he is holding forth in a stronger likeness of that poor old gentleman than I have yet seen."

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The Session, which was opened by the King in person on the 24th of February, commenced with a full attendance of Peers, among whom Lord Eldon was in his place. He wrote next day to Lord Encombe as follows:—

Lord Eldon to Lord Encombe.—(Extract.)

" My dear Encombe, " Wednesday, (Feb 25th, 1835.)

" As I shall see you soon, I shall not trouble you scarcely with mention of what has been passing in Parliament. A few days ago it was expected that there would be a great majority in the House of Lords against the Ministers. By extreme diligence, by Peers beginning to feel that, if they expect their descendants to succeed to their property*, the House was such last night, that the discontented did not venture even to divide against the address. Let anybody read the notices of motion, given in the Commons last night, and avoid seeing, if it be possible, the danger of negligence about their political duties. I sat last night in the House of Lords till between twelve and one—till all in that House was over. I certainly would much rather have sat by my fireside, quietly, and enjoying the comforts of conversation: but, as one individual, I will not belong to the assembly of those, who look only to personal ease, enjoyment, and comfort, and will not see to what the intentions of some appear to be, as affecting their posterity, and it may be themselves ere long."

Lord Eldon's last judicial sitting in the House of Lords was on the case of White *v.* Baugh, 9th March 1835.

Extracts of Letters from Lord Eldon to Lady F. J. Bankes.

(March, 1835.)

" The House of Commons seems to be more like a bear-garden than a meeting of gentlemen, and when I remember the gentlemanly conduct that there *was* observable in that House, on both sides, and read what the nature of conduct *now is* there, I look forward as to the public, with very gloomy apprehensions indeed, and with astonishment how little those apprehensions affect others.

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* Sic in orig.

"I hear the Church Commissioners have made one report, but I have not yet been able to see it. The new Ministers certainly have the credit, if that be creditable, of being inclined to get as much popularity by what are called Reforms as their predecessors; and, if they do not, at present, go to the full length to which the others were going, they will, at least, make so many important changes in Church and State, that nobody can guess how far the precedents they establish may lead to changes of a very formidable kind hereafter.

"My ever dearest Fan, you will soon be the best politician in the country, if I am not the very worst in London; but I must not plague you every day with such dull epistles as those must be which relate to such subjects.

"I have got a curiosity—a very neat inkstand, made out of the remains of a very old beam of oak, which, I suppose for centuries, had formed part of one of the houses of Parliament lately burnt."

(March, 1835.)

"The Dissenters are pleased, but they seem not to disguise that they are not satisfied. I take it that the true friends of the Church are neither pleased nor satisfied. As to the Dissenters, it is their nature not to be satisfied, as I can judge from very long experience."

The new Government, though strongly supported in the House of Lords, was bitterly opposed in the House of Commons; where the majority against Ministers, small as it was, (for it amounted not to a balance of thirty) was regarded by Sir Robert Peel as constituting, under all the circumstances of the time, a force too considerable to allow his retention of office with any public advantage. On the 8th of April, therefore, he acquainted the House that he and his colleagues had on that morning placed their offices at the King's disposal. Lord Melbourne then returned to the head of the Government, Lord John Russell leading the House of Commons with the office of Secretary for the Home Department. The other members of the Cabinet were principally those who had belonged to Lord Melbourne's former Ministry, with the very material exception, however, of Lord Brougham, who did not return to office. The Great Seal remained for some time in commission; but was finally committed to the single keeping of Sir Charles Christopher Pepys, the Master of the Rolls, who became Lord Chancellor, with the title of Lord Cottenham. This was the last change in the custody of the Great Seal which Lord Eldon lived to see. The Ministers were unable to finish the Session of 1835 until the 10th of September, when the King prorogued Parliament in person.

Early in August, Lord Eldon renewed his visit to his estates in Durham, and passed a few days at Rusheyford, where he was again joined by Mrs. and Miss Forster, and some other of his connexions. On one of his excursions, in passing with his solicitor, Mr. Alfred Bell, by the church at Sedgefield, he looked up at it for some moments, and then, turning round, said to him with great emotion, that it was in that church he had first seen his late Countess.

Miss Forster has preserved a little piece of advice, pleasantly given by Lord Eldon to Mr. Hoult, the landlord of the inn at Rusheyford. "I hear, Mr. Hoult, that you are talking of retiring from business; but let me advise you *not* to do so. Busy people are very apt to think a life of leisure is a life of happiness;

but believe me, for I speak from experience, when a man, who has been much occupied through life, arrives at having nothing to do, he is very apt not to know what to do *with himself.* I am interested in this advice, Mr. Hoult, for I intend to come here every year for the *next thirty years*, and I hope to find you still the landlord. And now good day; and I trust, if God spares me, we shall all meet again next summer."

About the close of 1837, Lord Eldon, relating this to Mr. Farrer, added,

"Next year, when I again visited Rusheyford, the landlord told me he had taken my advice, and determined not to give up his inn. It was advice given by me in the spirit of that Principal of Brasenose, who, when he took leave of young men quitting college, used to say to them, 'Let me give you one piece of advice: Cave de resignationibus.'—And very good advice too."

His visit to Durham in August 1835 had been without notice to any of his friends in London. Indeed, from the time of Lady Eldon's death, his movements were not infrequently abrupt. One reason for the concealment of his plans was his wish to avoid visiting country houses, to which he had numerous invitations whenever it was understood in what direction he proposed to travel. This year he returned from the North to Encombe toward the end of August.

He had left London, much discontented with the conduct of the Conservatives in not offering a stronger resistance to the Corporation Bill. Against this measure, says the Law Magazine, No. XLIV.

"He protested loudly in private, with feverish alarm, as leading directly to confusion. Its interference with vested rights shocked his sense of equity even more than the sweeping clauses of the Reform Act. To set at nought ancient charters as so many bits of decayed parchment, and destroy the archives of town-halls, seemed in the eyes of the old Magistrate, for so many years the guardian of corporate rights, a crowning iniquity. Pale as a marble statue, and confined to his house in Hamilton Place by infirmity, he would deprecate equally the temerity of Ministers and the madness of the people; and his vaticinations, like the prophet's scroll, were full to overflowing with lamentations and woe. His correspondence, for some years previously, had borne marks of the troubled gloom with which he viewed the changes gradually darkening over all he had loved and venerated, till he felt almost a stranger to the institutions of his native land."

Lord Eldon to Lord Encombe. — (Extract.)

(Franked, August 31st, 1835.)

"I found, with hardly any exceptions, that the House of Lords, notwithstanding all I could say for the information of those who formerly would have listened to my humble advice, were determined to pass the bill such as it has now become: and though I admit that Lyndhurst's amendments do him great credit, — to the shame of the House of Lords, the bill finishes as one of the worst precedents, and as dangerous at least a precedent as any, to be found in the Journals of the proceedings of that House. They may call it, if they please, a Bill for the Improvement of Corporations. I must maintain that it is no other than a Bill of Pains and Penalties passed by the House of Lords in its *judicial* and *legislative* character, without any evidence before it, whether we consider the King's commission appointing Commissioners of Inquiry into Corporations as *legal* or *illegal*. If the Commission was illegal, evidence taken before Commissioners under an illegal Commission could never, according to law, be considered as legal testimony anywhere. If the Commission was legal, and the examination of witnesses under it produced a crop of lawful evidence, the House had not the evidence before it, so acquired, — for not only did not the Commissioners annex evidence or the testimony of witnesses examined, but, as I understand, if there was any such testimony on examination, the production of it was refused to the House of Lords. And it is whimsical enough to see that House beginning with the examination by Charley Wetherell in *defence* of his clients, before there was one single word of evidence *against* them before the House, or, as I believe, there yet is. That the House should allow this, — that some Lords, of whom I hoped for better things, should agree to this, — that I should be unable to go down to the House, from infirmity, to grapple with such proceedings, — has destroyed that quiet of mind with me, which is so essential to health. Save my country, Heaven! is my morning and evening prayer; but that it can be saved it cannot be hoped. 'Quos vult perdere dementat prius.'"

In the following month he had a visit in Dorsetshire from Mr. and Lady Elizabeth Repton; and during the greater part of October Lord and Lady Encombe were there with their eldest daughter, a little girl who won Lord Eldon's especial favour by her fondness for Pincher. He speaks of the child in one of his letters as the "Pincher-loving little one."

In the course of this autumn, Lord Eldon and his daughter Lady Elizabeth erected a stone seat at Encombe, on a spot of rising ground near the sea to the south of his house, on which he caused the following inscriptions to be placed, east, north, and west respectively: —

"ELDON SEAT."

"1835."

"THE FIRST STONE OF THIS SEAT
WAS LAID BY THE LADY E. REPTON,
THE ELDER DAUGHTER OF THE FIRST
EARL OF ELDON,
XV. OCTOBER, MDCCCXXXV."

On the south there is no inscription.

Some months previously, he had built an obelisk, on high ground, to the north of his house. It was inscribed as follows:—

On the north-east side,

"IN HONOUR OF
SIR WILLIAM SCOTT,
CREATED
BARON STOWELL,
THIS OBELISK IS
ERECTED BY HIS
BROTHER.
MDCCCXXXV."

On the south-east side,

"THE FIRST STONE
OF THIS OBELISK
WAS LAID BY THE
LADY F. J. BANKES,
THE YOUNGER DAUGHTER
OF THE FIRST
EARL OF ELDON,
MAY XXVIII. MDCCCXXXV."

On the other two sides there is nothing inscribed.

One more inscription, from the pen of Lord Eldon, humble as its subject may be thought, deserves to be added, for its great simplicity and beauty. It was designed by him for the grave-stone of a Newfoundland dog, named Cæsar, who was buried at Encombe; but the stone was never actually erected.

"You who wander hither,
Pass not unheeded
The spot where poor Cæsar
Is deposited.
He was born of Newfoundland parents.
His vigilance, during many years,
Was the safeguard of Encombe House:

His talents and manners were long
The amusement and delight
Of those who resorted to it.
Of his unshaken fidelity,
Of his cordial attachment
To his master and his family,
A just conception cannot
Be conveyed by language,
Or formed, but by those
Who intimately knew him.
To his rank among created beings,
The power of reasoning is denied.
Cæsar manifested joy,
For days before his master
Arrived at Encombe:
Cæsar manifested grief,
For days before his master left it.
What name shall be given
To that faculty,
Which thus made expectation
A source of joy,
Which thus made expectation
A source of grief?"

Lord Eldon to Lord Kenyon. — (Extract.)

"My very dear Lord, "Saturday, (Nov. 14th, 1835.)

"I ought long ago to have thanked you for the comfort I received from my daughter Elizabeth reading a letter, which I think you sent, respecting the velocity, the comparative velocity, of Brougham and Eldon, in Chancery, and in Appeals. It is quite obvious that the number of decisions, in a given time, proves nothing of the sort which Lord B., and the present Attorney* suppose it to prove. In making a comparison, you must, necessarily, not merely advert to the number of decisions, but the nature of the cases in which the decisions were pronounced. There have been no such matters, since my time, as a Queen's trial, the trial of a Berkeley Peerage, or of the various questions in the great

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* Sir John Campbell.

Roxburghe Peerage and estates, in the last of which I think three days were employed in delivering my judgment: cum multis aliis. On a subject of this nature, however, my mind is at rest, though a very fidgetty mind. I am mistaken, if, after I am gone, the Chancery records do not prove I decided more than any of my predecessors in the same periods of time. Sir Lloyd Kenyon beat us all.

"Your faithful and affectionate,

"ELDON."

"For the country's welfare, my hopes are gone. I see leaders of all parties sacrificing principle to expediency. They create the expediency, and then they sacrifice all principle to it. Surely it is difficult to support a denial, that all sides, as to leaders, have gone too far in acting on this most mischievous doctrine."

After the departure of Lord and Lady Encombe, in October, from Dorsetshire, Lord Eldon paid a visit of a few days to his brother, the health of whose only son was now in a hopeless state. Lord Stowell's perceptions were so much impaired by age, that he was unconscious of his son's condition; but Lord Eldon felt it painfully, both during his visit at Earley Court, and on his return to Encombe in the beginning of November.

Lord Eldon to Lord Encombe. — (Extract.)

(Received Nov. 23rd, 1835.)

"The intelligence I receive from town and Richmond Park * is, that W. S. (William Scott) may linger a *little* longer; but the worst may be looked for, and soon. Hopes are not entertained. It is impossible to say how this distresses me. If the worst does happen, and soon, I could be of no comfort in such a state as Earley Court would be in. Not to go, however, might be very distressing to myself, and painful to those to whom I ought, if possible, to avoid giving pain. Contemplation on this subject is to me torture."

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* The residence of Lord Sidmouth.

The succeeding extracts of letters from Lord Sidmouth, who, as the husband of Lord Stowell's only daughter, was now in constant attendance at Earley Court, record the last particulars respecting Mr. W. Scott, and respecting the venerable Lord Stowell himself:—

Extracts of Letters from Lord Sidmouth to Lord Eldon.

"My dear Lord, "Earley Court, Nov. 25th, 1835.

"The vital powers* are nearly exhausted, and not likely, it is thought, to hold out another day.—Lord Stowell is unconscious of what is passing and impending, but in bodily health is as well as when you last saw him."

"My dear Lord, "Earley Court, Dec. 2nd, 1835.

"The ceremony of this day, and all the arrangements connected with it, were conducted with the utmost propriety. Lord Encombe was chief mourner. He was received yesterday by Lord Stowell in a manner that was extremely affecting; and it was evident that Lord S. continued pleased with his guest till they parted, at half-past six; though I am confident that all consciousness of who he was did not last many minutes after their first meeting.

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"My dear wife maintains her incomparable equanimity. Lord Stowell remains unconscious of what has passed; and is quite as well, and as free from irritation, as he has been for a long time past.

"All matters of business have been consigned to the management and care of Mr. Chisholme, whom I saw in town on Saturday last.

"A most kind letter from you is this moment arrived, for which accept our cordial thanks. Under other circumstances, your presence and advice would have been most welcome and acceptable to us; but under the present, such a journey would have been highly imprudent and hazardous, and such a risk would have added greatly to our distress. My eldest daughter is a great comfort to us.

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* Of William Scott, who died the following day.

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"Affectionately yours, "SIDMOUTH."

Lord Stowell survived but a few weeks. The intelligence of his death is thus briefly communicated by Lord Sidmouth to Lord Eldon:—

"My dear Lord, "Earley Court, Jan. 28th, 1836.

"The scene is closed: at half-past two this afternoon I was called to the bedchamber, and witnessed the last sigh (for it was no more) of your beloved brother, and of my highly-valued and respected friend. Lady Sidmouth is perfectly composed, though in a state of extreme debility. Mrs. Gaskell happily is with her. I will write again to-morrow.

"Ever yours, "S."

"Earl of Eldon, &c. &c. &c."

The remains of Lord Stowell lie buried in Sonning Church, near Reading; and the wall above his grave bears a monument, placed there by his son-in-law, Lord Sidmouth, with the following inscription:—

"Sacred
To the memory of
The Right Honourable
WILLIAM SCOTT, BARON STOWELL,
Of Stowell in the County of Gloucester,
D.C.L., F.R.S.
Born October 28th*, 1745,
Died January 28th, 1836.
He was one of his Majesty's
Most Honourable Privy Council:
Many years Judge of
The High Court of Admiralty of England,
Chancellor of the Diocese of London;

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* NOTE BY THE PRESENT EARL.—Oct. 28th, according to the New Style, but Oct. 17th, according to the Old.

And one of
The Representatives in Parliament
For the University of Oxford,
From the year 1796*, to the year 1821,
When he was raised to the Peerage.
This eminent person
Was universally and most justly regarded
As one of
The principal ornaments of the country
And age in which he lived.
In him were combined
All the talents and acquirements
Of a profound and accomplished scholar;
All the qualities of a wise and upright judge;
Together with an ardent attachment
To the civil and ecclesiastical institutions
Of his country,
Of which institutions he was
The firm and uncompromising supporter,
Throughout his long and
Exemplary life."

In addition to the offices of Judge of the High Court of Admiralty, and Chancellor of the Diocese of London, Lord Stowell had held those of Vicar-General and of Master of the Court of Faculties of the Archbishop of Canterbury; but it was in the Admiralty Court, and in the Court of the Chancellor of London, commonly called the Consistory Court of London, that he gave the judgments on which his fame is founded. In February 1828, he resigned the office of Judge of the Admiralty, which he had then held for a period of twenty-nine years, having been appointed to it on the 26th of October 1798.

Lord Stowell left large estates, both real and personal. By the premature death of his son, who had been the primary object in his will, the enjoyment of the bulk of his property, real and personal, devolved upon his daughter Lady Sidmouth for her life. On her death without issue, the devise carried the Gloucestershire estates to Lord Encombe for life with remainder to his sons successively in tail male, and in default of such issue to the testator's right heirs:—the other landed estates being left, immediately on failure of Lady Sidmouth's issue, which event took place, to the testator's right heir, who was Lady Sidmouth herself. The personal property, after payment of some legacies and annuities, became divisible under the will among the testator's next of kin, according to the Statute of Distributions.—The executors he named were Lord Eldon (who, from his great age, was unable to undertake the trust), Lord Sidmouth, and William Chisholme, Esquire, of Lincoln's Inn Fields.

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* So on the marble; but he represented Downton from 1790 to 1801.

Lord Stowell had the good fortune to live in an age, of which the events and circumstances were peculiarly qualified to exercise and exhibit the high faculties of his mind. The greatest maritime questions which had ever presented themselves for adjudication,—questions involving all the most important points both in the rights of belligerents and in those of neutrals,—arose, in his time, out of that great war in which England became the sole occupant of the sea, and held at her girdle the keys of all the harbours upon the globe. Of these questions, most of them of first impression, a large proportion could be determined only by a long and cautious process, of reference to principle, and induction from analogy. The genius of Lord Stowell, at once profound and expansive, vigorous and acute, impartial and decisive, penetrated, marshalled, and mastered all the difficulties of these complex inquiries; till, having "sounded all their depths and shoals," he framed and laid down that comprehensive chart of maritime law, which has beome the rule of his successors, and the admiration of the world. What he thus achieved in the wide field of international jurisprudence, he accomplished also with equal success in the narrower spheres of ecclesiastical, matrimonial, and testamentary law. And although, where so many higher excellences stand forth, that of style may seem comparatively immaterial, it is impossible not to notice that scholarlike finish of his judicial compositions, by which they delight the taste of the critic, as by their learning and their logic they satisfy the understanding of the lawyer.

Like Lord Eldon, he was more repelled by fears of change, than attracted by hopes of improvement. On questions, therefore, which involved any kind of disturbance, whether legal, political, or ecclesiastical, his voice was almost always against the mover; or if he opposed not with his voice (as he was little given to parliamentary display), he resisted with a steady vote, and an influence which, from his learning, his station, and his close connexion and communion with the Chancellor, was vastly potential. But he was not more stubborn in legislation, than he was free and facile in society: he lived with all the best political and literary company, and to the latest period of his London life, his presence was coveted at all the most agreeable tables of the time, without distinction of party.

CHAPTER LX.

1836.

LETTER FROM LORD ELDON TO LADY E. REPTON.—UNEASY FEELINGS: LORD STOWELL'S WILL: LETTERS BETWEEN LORD ENCOMBE AND LORD ELDON.—PORTRAITS OF LORD ELDON.—HIS FIFTH VISIT TO DURHAM: MISS FORSTER'S RECOLLECTIONS OF IT.—A FRENCH LADY AND A FRENCH KISS.—VISIT OF MRS. AND MISS FORSTER TO ENCOMBE: MISS FORSTER'S RECOLLECTIONS OF IT.—LOSS, RECOVERY, AND HISTORY OF PINCHER.—CONVERSATION OF LORD ELDON WITH MR. FARRER.

IN March 1836, an alarming illness attacked Mr. G. W. J. Repton, the son of Lady Elizabeth. His grandfather's deep interest in him appears in the following letter:—

Lord Eldon to Lady Elizabeth Repton.—(Extract.)

(March 18th, 1836.)

"It is impossible for me to tell you or Mr. Repton, or G. R. junior, what my feelings have been. My affection, my duty, and every sentiment of my heart leads me to beg that you will mind no expense that advice can furnish you with; all *that* I shall most heartily furnish, and send you as you may direct me.—I trust and pray that Heaven may graciously be kind to us all. My warmest love to each and every of you.

"Yours from my heart,

"ELDON."

Though Lord Encombe's purchase of Shirley in November 1834, had been so far from disagreeable to Lord Eldon that he had even presented his grandson with the purchase-money of that property, yet when he found that the effect of a residence so near London was practically to prevent Lord and Lady Encombe from making their constant abode in town during the winter, he became a little discontented. Lord Encombe's object in placing himself at Shirley had been to combine a provision for the health of Lady Encombe and his young family, with a frequent attendance on his grandfather; but, as old age and infirmity are not always quite reasonable, Lord Eldon, in the last two years of his life, allowed himself to be a good deal chagrined at this arrangement, — without any intimation, however, to Lord Encombe, who learned his grandfather's dissatisfaction only from some hints kindly given to him by Mr. and Lady Elizabeth Repton. Lord Eldon appears also to have been mortified, that Lord Stowell's will passed him by, in favour of Lord Encombe. On this last subject, a conversation chanced to take place between him and his grandson, which produced the following letters:

Lord Encombe to Lord Eldon.

"11, Hill St., Sunday Evening, April 3rd, 1836.

"My dear Grandfather,

"As an expression escaped me to-day in our conversation, which I had previously not intended to have mentioned during my cousin Lady Sidmouth's life-time, I prefer to write it now distinctly to you without further delay. At the time that my dear uncle Lord Stowell made his will, Lady Sidmouth's health was far better than it is unfortunately now, and he could not reasonably have anticipated that his son, being then a young man of a most powerful constitution, should be called from this world before his father Lord Stowell, or you his uncle. This to my mind sufficiently accounts for the omission of your name, instead of, or at least previously to, mine, as a successor to the Stowell estates.

"I, therefore, hope you will understand (since there can be no doubt that the event of my cousin William Scott's death, had it been known to Lord Stowell, might materially have altered his arrangements, as long as his mind was equal to it), that I consider myself as doing no act of ostentatious liberality, but a bare act of justice, when I beg, as I do, that you will, during our lives (should we survive Lady Sidmouth), take entire possession, in the amplest manner, of every right and power over the Stowell estates, which is in the will bestowed on me, not for my own merits, but as being your grandson. With Louisa's and my own most affectionate love,

"Believe me, my dear Grandfather,
"Your very affectionate Grandson,
"ENCOMBE."

Lord Eldon to Lord Encombe.

"Dear Encombe, (April 4th, 1836.)

"I have received this morning your most kind, and most affectionate, and most liberal letter. To avail myself of it, in the smallest degree, I cannot, indeed I *ought* not. I had every reason to believe, I may say to *know*, that my brother, quite independently of your very kind way of accounting for it, had long intended to place you next in succession, to his Gloucester estates, to his son and daughter; and had made up his mind, and I don't think unreasonably, I really do not think so, to pass over me with respect to that property. Of your kindness and liberality I never could think of availing myself in the smallest degree. If, in events which may happen, I live to see you in possession, you may depend upon my best advice to enable you to enjoy that possession, and assistance if I have the means of rendering that assistance and giving that advice. The only, and the *last anxious wish* that I can express or form, is that whilst I live, and after I am gone, my dear daughters and their children may be, as I think they ought, next to your descendants, the objects of your principal kindness and respect.

"Wishing you, Louisa, and Infantula, all happiness for many years to come, I am theirs and yours very affectionately,

"ELDON."

The strength of Lord Eldon was now visibly giving way. In the Session of 1836, he never attended the House of Lords, from which, while his health permitted, it had always been a point of conscience with him not to absent himself.

Early in the preceding year a portrait of him, begun in December 1834, was finished by Briggs. It represents him in his great-coat, seated by a library table, on which appear a letter, and an inkstand the original of which was made of oak from one of the Houses of Parliament, and given to him by the Rev. Thomas Thurlow.* This picture was painted for Mr. Thurlow, and the letter appears franked to him†; which was done upon the canvas by Lord Eldon's own hand, in a colour resembling ink. In the beginning of 1836, two repetitions of it were painted by the same artist, as presents from Lord Eldon to his two daughters respectively, which have this variation from the first, and from one another, that the letter in each is addressed to the lady for whom that particular picture was executed. As in the original, so in the two counterparts, the address is written, or coloured in, by Lord Eldon himself. In the painting for Lady Frances, but not in the others, the dog Pincher is introduced.

At the end of July, Lord Eldon repeated his excursion into Durham, of which Miss Forster has recorded many particulars. She writes thus: —

"As Lord Eldon appeared to enjoy much these annual visits to his Northern friends and his Northern estates, looking back to the last and forward to the next with extreme pleasure, it may perhaps be a source of future interest, if I preserve some account of what passed at one of them.

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* See a letter to Lady F. J. Bankes, of March 1835.

† "London, March 7th, 1835. Eldon. Rev. Thomas Thurlow, Baynard's Park."

"On Saturday, July 30th, 1836, Lord Eldon arrived at Rusheyford, about three o'clock in the afternoon; and, in about half an hour afterwards, my mother and myself joined him, having received letters from him on his way down, to let us know his progress and when he would arrive. Not finding us at Rusheyford, he had just finished a letter to my mother to tell her, 'that we could not arrive too soon or stay too long.' Our reception was truly gratifying, from the warmth of affection he showed us. He was very weak, from his long and recent attack of gout; but his appetite was better than the preceding year, and he was extremely cheerful. That afternoon and the following day (Sunday), the conversation was principally upon family events; and he remained quiet, in order to rest after the fatigue of his journey from London.

"On Monday, he went to see what he called 'one of his foreign domains.' He arrived back to dinner, and found Mr. and Mrs. J. Manisty and Mr. Aubone Surtees. To attempt to describe Lord Eldon's conversation would require very great powers of memory; for every sentence is worth recording. Arguments upon the present state of public affairs, proving, from the effects of past measures, the justness of what he had formerly stated in parliamentary debates, and a full stream of anecdotes, mingled with many playful and witty observations, made that, as well as every other day I spent in his company, truly delightful.

"My dear uncle's conversation at Eldon was partly serious; but the greater part of the time, full of fun, joke, and anecdote. Neither in this or any former years did I ever know him omit to speak seriously of what his thoughts and feelings ought to be at the very great age he had now attained, — the uncertainty of his ever reaching Eldon again, — the examination of his past life, which the leisure of the last few years had enabled him to make, — the satisfaction that arose from a consciousness of not having sought honours, but of having endeavoured to act in every case from pure motives, — his preparation for death, which must soon take place.

"'I have employed the leisure of my latter years,' he said, 'in looking back upon my past life, and I hope I may say without presumption, that my mind is at ease. I may have been in the wrong; but I always tried to judge, and to act, by the best powers of my mind, unswayed by any impure motive.' Having created the impression on his hearers, which, as a Christian, he appeared to wish to make, he would then turn to lighter subjects, and, by his wit and his anecdote, keep every one amused the whole of the evening.

"*Thursday.*—On this day, on which the tenants dined, my uncle remained in the house. After dinner, he always, on this day, went in, made a speech, and drank to the health of his guests: loud indeed were the cheers that ensued. The following was his address to them, written down by Mr. A. Bell.

'Gentlemen,

'I thank God, that it has pleased Him to allow me once more the happiness and pleasure of meeting you all again. It also gives me great satisfaction to tell you, that I have been informed by those, from whom alone I can receive accurate information on the subject, that you have, all of you, made improvements in the management of your farms. For this I thank you: and I cannot but attribute these beneficial effects, in a great measure, to the alteration which you have made in the tenure of your farms, in taking them for a term instead of from year to year. It is evident to me, as it must, I think, be to you all, that a tenant, who is liable to be removed in a year from his farm, cannot, satisfactorily to himself, make those improvements, which he will do, when he is sure that he can remain on his farm long enough to reap the benefit to himself of those improvements. I thank you all, for your improved management. I will come among you as long as it shall please God to allow me. I wish you all, yourselves and families, health and happiness; and I shall never, while I live, cease to consider my tenantry as part of myself.'

"The following morning, Friday, 5th of August, my venerable uncle, Lord Eldon, left Rusheyford. We parted cheerfully, for we hoped soon to meet again at Encombe.

"When he left Rusheyford in the beginning of August, he desired me to deliver a kind message which he dictated, on business, to the Rev. James Manisty, and a kiss to his lady*, which he said he durst not give her in her husband's presence. Writing to him a few days afterwards, my letter contained the following paragraph: —

"'I delivered your message to Mr. and Mrs. Manisty, and they both desire me to return you their grateful thanks; that is to say, Mr. Manisty thanks you for your message, Junie for your kiss, which I took care to deliver, as you desired, in *private.*'

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* A native of France.

"When we were at Earley Court I received a letter from Junie, containing the following message, which I copied and sent to my uncle, explaining that a French kiss was one to each cheek: —

"'Pray, Ellen, say whatever you think most respectful for me to Lord Eldon; but I do not think there would be any harm in sending him a French kiss. It is what no English lawyer can object to, it being only justice to make both sides of the face alike.'

"When Lord Eldon read this message, he laughed heartily, declared he had thought he would have lived and died an Englishman in every thing, but really in the article of a kiss he must become a Frenchman. He wrote me this answer: —

"'Corfe Castle, Sept. 11th, 1836.

"'I entirely approve the double species of osculation, of both cheeks, which Mrs. M. recommends, and I shall hereafter punctually adopt that mode of osculation when a French face is in my view.'"

Before the middle of September 1836, Mr. Pennington paid a visit to Lord Eldon at Encombe. "When I went there," said Mr. Pennington some time afterwards to Mr. Farrer, "Lord Eldon abruptly asked me whether I thought he could recover. Seeing I was taken by surprise, he said, 'I know you can't stay long: go into the next room and take some luncheon.' I did so; and when I returned, he again put the same question to me. 'As you ask me, my Lord,' I said, 'it is my duty to tell you, that I never knew the disease you are suffering under cured. There are persons in London, who say they can cure it: I am most anxious that your Lordship should call in other medical advice: I hope you will do so when you go to town.' Lord Eldon looked at me, and then in his emphatic manner replied, 'I have lived by Pennington, and I will die by Pennington.'"

Mrs. and Miss Forster arrived at Encombe about the latter end of September 1836. The following are Miss Forster's memoranda made at the time: —

"On our arrival at Encombe, we received, from my dear uncle Lord Eldon, a most kind and affectionate welcome. By Lady Elizabeth, Mr. Repton, and their son, we were also most cordially greeted. That day there was no company, and the evening passed in cheerful conversation and some anecdotes.

"The next morning, my venerable uncle invited my mother and myself to accompany him into his study, or, as he called it, into his *shop*, where he told us we would be at all times welcome, and that the more time we spent there, the more welcome we would be. The first thing he pointed out to our attention was a small painting of his Royal Master, George III.; not in what at first sight might have been deemed an honourable situation, but placed in a corner, the only spot in the room which had the double advantage of being out of the reach of the sun, and in full sight from the easy chair by the fire, where Lord Eldon usually sat: and these advantages he carefully pointed out to our attention. The next object he showed us was a small drawing of his favourite dog Pincher, done for him by Mr. Repton. This dog was connected in his mind with some affecting family circumstances, and recalled to his memory a deceased son. The third object was an old and worn-looking Greek Testament, upon the first page of which he had written, that it had belonged to his revered master, the Rev. Hugh Moises. After sitting some time, in confidential conversation upon various subjects, we left the study, my uncle again inviting us to come there frequently, promising that we should have all the old stories over again, of which, he said, we knew he had a great store. Lady Frances Bankes came to dinner, and two of her children had their supper at our dessert.

"Mr. Repton accompanied us in a walk to the Eldon Seat. This seat, which was erected under the direction of Mr. Repton, is made of stone, and intended to last as long as massive stones, cramped together by iron, can last. To this spot we frequently walked during our stay at Encombe, and my uncle always appeared pleased when we told him we had been there. He told us the most imposing sight he had ever beheld was from the neighbourhood of this spot: it was a fleet of several hundred vessels passing along the channel, sailing in regular order, and forming a dense square. They manœuvred or tacked by signal, always preserving their order with beautiful precision; these vessels were conveying soldiers to Spain.

"On Sunday, the carriage was ready to convey us to church. Kingston Church, which is a chapel of ease to Corfe, had been rebuilt at my uncle's expense, under the direction of Mr. Repton. A plain monument to the memory of Lady Eldon, by Chantrey, had been placed in it. Another spot, to which my dear uncle directed our attention, was the vault, which he had had prepared for himself and family, and which had been consecrated by Dr. Gray, the late Bishop of Bristol. It was indeed with feelings of deep emotion we surveyed so interesting and so sacred a spot,—

destined to be the resting-place of the mortal remains of one for whom we felt such warm, constant, and fervent affection, and whose end we could not contemplate without foretaste of that sorrow so great a bereavement was sure to inflict: but he spoke not of it as an event of sorrow, but as a change for which he had been long prepared — an event which must soon take place. My dear uncle sent us to drive along the beautiful grassy terrace, on the high ground that surrounds the bowl. We were, as we might well be, charmed with the splendid views all around, which we then saw with all the advantages of a bright day.

"Whilst at Encombe, I slipped my foot on the hill beneath the Stowell monument, and fell with amazing rapidity to the bottom. The shake brought on a feverish attack. I felt very grateful for my dear uncle's kindness and attention whilst I was ill, though I confess I could not help being amused at hearing of his frequent inquiries of what wine he must send up, and his lamentations that no wine could be found in his cellar to do me good. When I first saw him, his brightly affectionate look, and the simple words, 'my darling,' I can never forget.

"On the morning that my cousin George Repton left us at Encombe, to return to his tutor near Weymouth, I went into my uncle's study, and mentioned that George had looked very grave at parting. My uncle agreed, observing—'I told him that if he wished 'to stay, or felt that a further period of relaxation 'was necessary for the restoration of his health, he 'should remain, and I would be glad of his company; 'but at the same time I represented to him, that his 'present period of life (nearly eighteen) was very 'valuable for purposes of education, and that I had 'frequent occasion to remark, that young men who 'lost that period, from idleness, or any other cause, 'were never able to make it up in after-life: it was 'therefore for his serious consideration whether he 'would or would not stay; I repeated, however, that I 'would be glad of his company, and though he looked 'very dull, he is gone.' 'He told me with great delight,' said I, 'of your having allowed his favourite 'dog to accompany him.' 'Yes,' answered Lord Eldon, 'I was obliged to do that to comfort him.'

"During the latter part of our stay we talked a great deal of Oxford, and received his strict injunctions to see University College. He also directed our attention to the Theatre and several other Colleges and buildings; and he appeared to have very great pleasure in talking of the various things that had occurred to him there,—his riding up to London to keep his terms, — his cutting down the tree in All Saints' Church-yard, — his tittering audience, &c.

"I enjoyed very much seeing my venerable uncle with his grandchildren, Fanny and Eldon Bankes, beside him after dinner, other members of the family being present. The children hearing him his letters, he repeated the alphabet, altering the usual order of the letters. 'No, no, grandpapa, that won't do.' He again repeated them with mock solemnity, preserving every letter, though he again varied the order. Then came a mock discussion between the elder and younger members of the family, whether grandpapa should be sent to a preparatory school, or taught the rudiments of education at home, lest he should disgrace the family: the venerable Earl listening to, and entering into, the amusement, with affectionate playfulness.

"Encombe may be considered an hospital for horses, all the favourite horses of the family having a run there for life.—My uncle appears to delight in making every one around him happy. The wife and children of his personal attendant, Mr. Smith, are brought down to Encombe for the time of Lord Eldon's sojourn there, and are comfortably established in one wing of the house. The children call him 'a dear Lord Eldon.'"

Lord Eldon related to Miss Forster the particulars of the temporary loss of his dog Pincher, which had happened in November 1832. The following is his narrative to her, a little corrected from letters written by him to Lord Encombe and Lady F. J. Bankes, a few days after the occurrence, while its circumstances were fresher in his memory:—

"I suffered much when I believed him to be irrecoverably lost. There was no danger of losing him in day-light, though he would roam about with great activity. In travelling, when we let him out of the carriage, he never turned the brow of a hill till he saw the carriage near him. Once, unfortunately, a servant kept him out till after dark, and when the servant came to Hamilton Place the dog was not with him. I immediately advertised, offering five guineas reward to any one who would bring the dog to me, or give such information as would lead to his recovery and the conviction of whoever detained him. Well, in a day or two I received a letter by the post, to let me know I had put a very foolish advertisement into the newspaper; for, in the first place, no dogstealer would ever give up an animal for the reward that might be *first* named, as they always waited in expectation that a larger sum would be offered: I should, therefore, my correspondent said, have first mentioned two guineas, then three, and then come up to five. Then the second part of my advertisement was as foolish as the first; for that if I talked of the *conviction* of the offender, I might depend upon it I never would see the dog again: and this letter was signed 'An Amateur Dog Fancier.' I thought perhaps the advice might be very good, so I advertised again, stating that no further reward would be offered; and as to the second piece of folly, I left it out altogether. Still nothing was heard of poor Pincher, and I was in great distress; for from the circumstances connected with the animal, I would far rather have lost a thousand pounds than have lost him. One thing, however, could not but be gratifying to me,—such a number of gentlemen, personally unknown to me, exerted themselves to the utmost to recover my dog for me. Not fewer than ten were occupied; but some time had elapsed without our gaining any intelligence.

" On the Monday week an intimation was sent to my man Smith, that if he would call at a house in a street at a distant part of the town, named Cow Cross Street, he might hear of the dog: and the day and the hour were mentioned. Well, I sent Smith, and with him the five guineas, and a Bow Street Officer. When they got to the place, no one was to be seen, and they walked about some time. At last a man whispered into Smith's ear, 'Dismiss the officer with you,' and instantly disappeared. Smith thought he had better comply; and when the officer was fairly gone, the man returned and demanded the five pound note. Now poor Smith was in a complete dilemma, for he thought that he would cut a pretty figure if he returned without either the dog or the money; but the man assured him that he always dealt upon honour, and that if the money was not instantly paid the dog should be dead in five minutes. Smith thought, and thought very rightly, that I would rather lose the five pounds than risk the life of the dog: so he pulled out his pocket-book and delivered the note to the man. 'Now,' said the man, 'you have treated me honourably, so I will be upon honour with you,' and he went into a high building, and brought down (observe, brought *down*) poor Pincher, with a rope round his neck, very thin, poor beast, but extravagantly overjoyed to see Smith. The man then offered to accompany Smith, till he saw him and Pincher into a hackney coach; 'for,' said he, 'I can tell you that without my assistance, I defy you to get that dog through these streets. We keep in our pockets, that, which will tempt any dog to leave his master: they can't resist it: but I am upon honour with you, and I will see you safe to a coach.' Well, as they went along, Smith remonstrated with this honourable gentleman that it was a great pity he could not find a better mode of gaining his bread than by dog-stealing. 'Why,' said the man, 'what can we do? Now that Parliament has put a stop to our trade of procuring bodies for the surgeons, we are obliged to turn to this to gain an honest livelihood.' An honest livelihood! this honourable gentleman gained an honest livelihood by stealing dogs!!!

Then he told Smith, that in our advertisement we had called the dog a poodle, but in that we were wrong, for it was a German spaniel, a much more valuable dog, and that they had a great demand for them; and he added that if the reward had not been punctually sent, the dog would have been out of the kingdom in a few hours. Smith and Pincher arrived safe home, and truly happy was I to see the poor animal. He had always been accustomed to go up every night with me, when I went to bed; but after his return he showed the greatest horror at the sight of the stairs, and it was many weeks before we could induce him to mount a single step: he had evidently been ill-used and starved. Poor Pincher, poor fellow! Pincher is painted with me in the picture that has been done for the Merchant Tailors' Hall. Chantrey attended, to see that they preserved a proper attitude. Poor fellow (patting him), he has a right to be painted, for when my man Smith took him the other day to my stationer's, the bookseller patted him, and exclaimed, 'How very like he is to *old Eldon*, particularly when he wore a wig;' but indeed many people say he is the better looking chap of the two.

"Poor Pincher (caressing his dog), a most affecting circumstance as ever I knew, occurred with this dog: he belonged to poor William Henry, and after I last took the Sacrament with him when he was dying, he called me back as I was leaving the room, and said, 'Father, you will take care of poor Pincher.' The dog was brought home to me when all was over: and in a short time he was missed. He was immediately sought for, and he was found lying on the bed beside his dead master. Poor Pincher! I would not lose him on any account."

Pincher's name occurs even in Lord Eldon's will, a small sum being left to his daughter Lady Frances specifically for the dog's maintenance. After the death of Lady Frances in 1838, Pincher was transferred by Mr. Edward Bankes into the family of the present Earl of Eldon, who, mindful of his grandfather's affection for the animal, proposed him as a subject for the pencil of Mr. Edwin Landseer. Mr. Landseer, a consummate judge of such matters, writes, November 1838, that he has had "the pleasure of making Pincher's acquaintance," adding, "he is a very picturesque old dog, with a great look of cleverness in his face." Accordingly, the following year, Mr. Landseer represented him listening to the ticking of the watch given to the Chancellor by George III., and likewise painted him in a groupe of the present Earl's children, executed by Mr. Briggs. Pincher had been introduced also into the picture of the Chancellor painted by Pickersgill for Merchant Tailor's Hall, and into that by Briggs for Lady Frances Bankes. He continued to be an object of interest with the friends of the family till he died at a great age, in May 1840, when the preaent Eearl had him buried at the foot of the Eldon Seat at Encombe, with an inscription commemorating him as the Chancellor's favourite dog.

Miss Forster thus continues: — "Though kindly, affectionately, urged to stay longer, it was necessary to think of bending our course homewards. November was commencing, and Encombe was far from Newcastle. We reluctantly quitted the 'happy valley,' after receiving from our honoured uncle strict injunctions to write to him from Salisbury, where we were to see the Cathedral, from Oxford when we had seen the Old College, and from every place we stopped at,—and after making us give him a willing promise that, if he lived and was tolerably well, we would again visit him the following spring or summer at Rusheyford, and in the autumn at Encombe."

Here ends the narrative of Miss Forster for the year 1836.

Lord Encombe, whose increasing family now made it difficult for his grandfather to quarter them in his country house, did not visit Dorsetshire this autumn; and the approach of winter brought Lord Eldon as usual to London. Mr. Farrer has preserved the following memorandum of a conversation with him in December.

"I mentioned that there was a report that Parliament was to be called together before the day fixed by the last prorogation. Lord Eldon said, 'Parliament cannot be called together before the day 'appointed by the prorogation, unless under particular circumstances. This is regulated by Act of 'Parliament. When I was in office, we wished that 'Parliament should meet before the day fixed by 'the prorogation. We felt great difficulty about it. 'I explained the law to the Cabinet*, and told them

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* This explanation must have been given by him, attending the Cabinet as Attorney-General. Until the 37th of George III. the King had no power to convene Parliament before the day for which it stood appointed, except where, by reason of insurrection, or rebellion, or invasion, or the danger of it, the King had ordered out the militia. (See the Militia Acts, particularly 26 Geo. 3. c. 107. sects. 96, 97.) Before Lord Eldon became himself a Cabinet Minister, the law on this head had been altered by 37 Geo. 3. c. 127, and 39 & 40 Geo. 3. c. 14.; under which enactments the King can now call Parliament, by his

'that, unless there was some strong ground for it, such 'as a disturbance or riots of the people, it could not 'be done. "Oh!" said Henry Dundas, afterwards 'Lord —— (I forget his name, but never mind that); '"If that's all, I can soon get up a very pretty riot 'in Scotland."'

"'In arguing before Lord Thurlow,' said Lord Eldon, 'Ambler cited a case, from one of the old 'abridgments, and which he observed the compiler 'thought so important, that at the foot of it he put '*Quod nota.* In my argument on the other side, I 'cited a case from a later abridgment, and observed, 'that the compiler of that abridgment added at the 'end of the case, Quod nota *bene.*'—'Which did Lord 'Thurlow treat as the best authority?'—'Oh, the '*bene* prevailed.'

"'Lord Thurlow made a Welch counsel very angry by franking a letter for him, —

—— Price, Esquire,
Wales,
Near Chester.'

"'In my time, on the Northern circuit, the first toast, after "The King," was "The Schoolmasters." In those days they made wills, &c., which furnished frequent employment to the lawyers.'"

proclamation, to meet at any time not less than fourteen days from the date thereof, though such time be earlier than the day to which Parliament may then stand prorogued or adjourned.

CHAPTER LXI.

1837.

MR. AND LADY F. J. BANKES.—LORD ENCOMBE'S PRESIDENCY AT PITT CLUB: LETTER TO HIM FROM LORD ELDON.—FAMILY PARTIES AT LORD ELDON'S.—PORTRAITS: INSTALLATION PICTURE.—DEMISE OF CROWN.—BREAKING-UP OF LORD ELDON'S CONSTITUTION.—WILTSHIRE ELECTION: LETTER FROM LORD ENCOMBE TO LORD ELDON.—LAST VISIT OF LORD ELDON TO DURHAM: MISS FORSTER'S RECOLLECTIONS OF IT.—LETTER FROM LORD ELDON TO LORD SIDMOUTH.—MEDICAL WARNING TO LORD ELDON OF HIS APPROACHING END.

THE marriage between Mr. Bankes and Lady Frances had not been eventually a happy one. Disagreements had occurred, and they became more and more estranged from one another until the early part of 1837, when it was finally resolved that they should separate. On the 6th of March, Lord Eldon announced this decision by a letter to each member of his family. The cause was merely incompatibility of temper, neither party having any specific charge to allege against the other. Lord Eldon naturally sided with his daughter. She was with him in London at the time of the separation, and Hamilton Place continued to be her home until his death.

Lord Eldon to G. W. J. Repton, Esq.

"My dear George, (Franked, Feb. 15th, 1837.)

"I hope you arrived safe and well at Abbotsbury, and suffered no pain on your journey or since, in the face or elsewhere.

"Heaven grant you freedom from all bodily pain, and all the enjoyment that good health can bestow. I believe it will prove a great blessing that your good father placed you for a time under such excellent care as has been bestowed upon you by Mr. and Mrs. Forster.

"The time is now not distant — not very distant — when you will be transplanted to Oxford, and, from the nature of the institutions in our Universities, it will much depend upon yourself what degree of benefit can be reaped there. Of the young it has been said, 'Gaudent equis, canibusque, et aprici gramine campi,' or something to that effect. Of extravagant gratification of that passion in young men, I well remember the pains which were taken in Oxford to restrain it. What are precisely the rules of the University in this respect now, I cannot say: but so much I can say, that after long and great experience, I never knew a young man who had indulged too much in these amusements at Oxford to the neglect of very diligent, if not severe duty, who ever afterwards in life graced his friends, family, or country, as I hope and pray you may hereafter grace them; and I never knew one who signally devoted his time at Oxford to study, who did not in after life become a blessing and ornament to his family and country. Happy I am to hope and believe that you, dear George, will use to the best advantage the constant paternal care which your excellent father has bestowed and is bestowing upon his son. — Be very select in the company you keep at Oxford, and never forget, what so many forget, that the University is not a place of amusement, but of constant study, to be interrupted only by *necessary* attention to health. — I neither have, nor can have, any motive in addressing you thus, but what is founded upon parental anxiety for your good, and for the happiness of yourself, your father, and mother; and I add for my own, as long as God may please to continue me in life.

"My very, very dear Fan, sends you her warm affection and all good wishes.

"Yours, dear George, with the most anxious affection,
"ELDON."

At the anniversary of the Pitt Club in May 1837, Lord Encombe was in the chair. What follows is his narrative of the honours paid on that occasion to his grandfather.

" The respect and attachment shown to Lord Eldon at the Pitt Club was extreme. Even after he had, from inability, ceased to attend the annual meetings, his health continued uniformly to be proposed from the chair, and this duty, when performed for the last time, devolved on myself, who had engaged, at the request of the Club, and in conformity with the wish of Lord Eldon, to preside at the anniversary on the 27th of May 1837. In the course of that evening the Duke of Wellington, on proposing my health, which he did in most kind terms, referred to my grandfather with these strong expressions of regard: 'We have 'all of us the most respectful and affectionate recol- 'lections of Lord Eldon. Attachment to him, I may 'say, is almost a part of the constitution of the 'country.' "

Lord Eldon was highly delighted with the report of the anniversary, particularly with the praise, which had been acquired by his grandson in the chair, and on which the Duke of Wellington and other friends came next day to pay him their congratulations. The following is the note which he wrote to Lord Encombe on this gratifying occasion.

Lord Eldon to Lord Encombe.

" Dear Encombe, (May 28th, 1837.)

" I have received, and read with difficulty, your letter, and another from Lord Kenyon, whilst tears are flowing from old eyes, and trickling down my cheeks.

" I congratulate you, and thank you. Fan, dear Fan, joins me, and we both affectionately congratulate you upon your fame as raised yesterday, and also offer our congratulations to Lady Encombe.

" Hers and yours affectionately, ELDON."

Lord Eldon, though now very feeble, continued to receive pleasure from the society of those to whom he was attached. In 1834, 1835, and 1836, he had a family party on each 4th of June, to keep his birth-day. In 1837, the 4th being a Sunday, he confined his invitations to Lord and Lady Encombe and two or three other persons; but on Wednesday the 7th, he assembled a somewhat larger circle of relations and friends, to celebrate the recent completion of his 86th year. "This party," says Mr. Farrer, "consisted of Lord and Lady Encombe, Mr. and Lady Elizabeth Repton and their son, Lady Frances Bankes, Mr. and Mrs. Farrer, Lord Kenyon, Captain and Mrs. Best, Mr. and Mrs. Thurlow, Mr. Pennington, Mr. Alfred Bell, and one or two other persons. Lord Encombe, being at the bottom of the table when the cloth was removed, told Lord Eldon that 'the ladies and gentlemen had drunk his health.' Lord Eldon replied to Lord Encombe, 'I desire that you will in my name return my most sincere thanks to the ladies and gentlemen who have been so kind as to drink my health, and that you will do it in as able a manner as that with which you acquitted yourself at the Pitt Club.'

"During this dinner Lord Eldon kept up a delightful run of pleasant humorous conversation, proposing too the healths of different persons at the table, with neat allusions to their professions. Giving the health of Captain Best, R.N., and wishing he might soon have a ship and go to sea, he took Mrs. Best's hand, and said to her gaily, 'Depend upon it, when he goes to sea, I shall stay on shore.'"

Mr. Farrer adds:—"21st June 1837. Mrs. Farrer and I, with our sons Matt. and Oliver, went to dine with Lord Eldon. We met Mr. Thurlow and his son, George W. J. Repton, and Lady Frances Bankes. Lord Eldon had that morning been down to the House of Lords to take the oaths, &c., on the Queen's accession. He was highly pleased with the reception he had there met with. He said, 'The kindness they showed me affected me to tears; the Peers, the officers of the House, all were so kind.'—He was very kind and attentive to the young ones at his table, joking with them about College, Oxford and Cambridge, inviting Oxford to drink wine with Cambridge, &c. When we left, at ten o'clock, he said to our boys, 'You must come soon again to dine with me: we'll be all boys next time.'"

In the summer of 1836, about two years after the gratifying exhibition of public feeling at the Oxford Installation, Lord Eldon had offered, that a repetition of the portrait of himself, in Mr. Thurlow's possession*, painted by Mr. Briggs, should be executed by the same artist, as a present to Lord Encombe. "Upon this intimation," says the latter, "I told him that if he were kind enough to give me his portrait at all, I should trouble him but little if he would permit Mr. Briggs, now familiar with his features, to paint him for me as he sat in the Theatre at Oxford, on the occasion of the Duke of Wellington's installation in June 1834. He seemed gratified by the feeling which had induced me to ask it, and spoke as disposed to consent." Afterwards, probably from dislike to the tedium of sitting, he bought one of Mr. Owen's portraits of him as Chancellor, and gave it to his grandson in substitution for the proposed installation picture. "However," says the latter, "I would not be disappointed if I could help it. I desired Mr. Briggs to prepare the picture, so as to require as little as possible of Lord Eldon's attendance. This being accordingly done, he sate in July 1837 to Mr. Briggs, who, on the 7th of that month, completed his portrait as High Steward of the University of Oxford, in his Doctor's gown, as he appeared when I went up to him upon my own degree being conferred by the Duke. In having this picture thus executed I indulged the natural desire of commemorating the only public occasion which ever brought me to his side." This picture, which was in the exhibition of the Royal Academy in the year 1838, and is now at the present Earl's residence in Hamilton Place, is the last for which Lord Eldon ever sate.

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* See Chap. LX.

The death of King William IV. had taken place on the 20th of June 1837; and Her present Majesty, who on that day succeeded to the throne, dissolved Parliament on the 17th of July.

Before Lord Eldon quitted London for the summer of 1837, he held another confidential communication with his medical adviser, Mr. Pennington, upon the state and prospects of his own health. Mr. Pennington recommended country travelling, but did not conceal from him that his constitution was broken, and that his life was drawing toward a close. This intelligence in no degree abated his cheerfulness. He pressed Mr. Pennington to spend the vacation with him at Encombe, offering to that gentleman his own terms for the visit; but Mr. Pennington answered that the case was one in which he could do no good; and that he must not withdraw himself from others of his old friends who honoured him with the same confidence as Lord Eldon. The aged Earl therefore took his way to Encombe, unaccompanied by any medical attendant. Lord and Lady Encombe were engaged this autumn to pay various visits in the North; but Lord Encombe, at Lord Eldon's particular request, passed a few days of the first week in August with him, and then set off for Ingleborough, the seat of Mr. Farrer, in Yorkshire.

The latter part of July, and the beginning of August, were occupied with the new elections. Lord Encombe, on the evening of the day on which he quitted Dorsetshire for the North, sent his grandfather this lively sketch of the popular feeling at the close of the poll in Wiltshire.

"Chippenham, 11 o'clock, Tuesday night,
"August 8th, 1837.

"My dear Grandfather,

"Although I have only just stopped at the end of to-day's travelling at eleven o'clock, I must not go to bed without writing a few lines to repeat my thanks to you, for your kindness to me, and for my pleasant visit to you at Encombe. You were right enough in supposing that I should fall in with some electioneering; but little did you or I expect that I should be haranguing at ten o'clock to-night, some fifteen or twenty Whigs and Radicals from my carriage. The fact was, I arrived at Melksham, but found no accommodation, it being a polling day for North Wiltshire. After driving from one inn to the other, and back again in vain search after a bed, or a fresh pair of horses, I was forced to wait while the Warminster boy baited his: this took about half an hour. Meanwhile I asked to see the state of the poll, which finally closed to-day. The landlord, whom my servant asked for it, brought it in person, and said he was *sorry* to tell me Methuen was beat, and Burdett was at the head of the poll. I said, that my principles being the other way, I could not share in his regret. He stated he was aware of it: and several of the persons standing about, finding who I was, (for Methuen's committee were dining and drinking noisy toasts there at the time,) took the opportunity of entering into conversation, and although every one present differed from our politics, yet they volunteered to express great admiration of you as a consistent Tory, and told me that if I, though a stranger, were elected member for North Wiltshire, it would be a credit to them, as I was a consistent politician; but that Sir Francis Burdett was a disgrace to them. I defended (as far as it is possible to defend) Sir Francis Burdett's conduct, and enough to put them to a loss to answer me; and this amusing scene, in the most perfect good humour, went on by the light of the hostler's lamp, which I perceived their curiosity induced them to throw full on my countenance, and it elicited from some of them an expression I overheard, that I much resembled you. At last, I had conducted, so successfully, my single-handed discussion with my assemblage, (about four or five of whom only were the principal speakers,) that one of them requested, as a favour, to be permitted to shake hands with me before the carriage started, and when I shook hands with him, about six others instantly seized my hand. I then drove off amid a salutation of cheering at parting, of which, I think, Mr. Methuen, the Whig-Radical, whose friends they all were, might have been jealous. Now do not suppose I mention all this as any merit of mine, but I like you to see as a set-off to the occasional ingratitude of the world, which is apt to annoy one, that in a place where, perhaps, you never were, and where I certainly never was, your character still lives (though you have ceased to attend the Houses of Parliament) among a class of persons who, probably, do not even know the names of the Chancellors who have succeeded you on the Woolsack. I send you the state of the poll at its close; and begging you to offer, to all with you, my most affectionate love, and to accept the same yourself, believe me,

"My dear Grandfather,
"Your very affectionate Grandson,
"ENCOMBE."

"In the latter end of August 1837," relates Miss Forster, "my dear uncle, Lord Eldon, again came to Rusheyford, and again my mother and I had the happiness of spending a few days with him; but we feared, we greatly feared, that it would be the last time, for he was altered from the preceding year. He received us as usual with warm affection; but a painful event had occurred in his own family *, and his conversation was at times dejected. At other times, he was not only cheerful but lively, and entered into a joke with great fun, carrying it on from day to day. He frequently also repeated many of his anecdotes, though not so much in detail as in former years. He again spent and enjoyed a day at Eldon; and he again had all his tenants to dine at Rusheyford. The following was his speech after dinner, the last which he addressed to them, probably the last that he ever delivered:—

"August 31st, 1837.

"'My first acknowledgments are due to that Great Being, whose pleasure it has been to afflict me with a painful illness, and to continue that infliction for a lengthened period, insomuch that I did not hope to have been able to have seen you all again. So long as it shall please God to allow me, it will ever be my happiness, as it is my duty, thus to come among you.'

"After adverting to the advantages of the leasing system as compared with that of yearly holdings, he continued:—

"'Gentlemen, since last we met, there has been a contest for part of this county in electing members to serve in Parliament. Lord William Powlett, the second son of the Duke of Cleveland, was spoken of for this division of the county, and I was applied to to use my influence in his behalf. The answer I gave was, that I considered it of the greatest importance

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* The separation of Mr. and Lady Frances Bankes.

that, in a county like this, where there is so large a body of opulent landed proprietors, and so highly respectable a tenantry, a Conservative member should be returned to represent them: that my sentiments were known; but that I should leave it to my tenants to exercise the franchise which Parliament had given them in such manner as should appear to them to be right and according to good conscience, and as most likely to uphold that Church in which the purest doctrines of our religion are taught in the best manner.

" 'Gentlemen, I repeat the great thankfulness I feel in having been allowed once more to come among you. In taking leave of you, gentlemen, I say from my heart, may God bless you and your families!'

" The above was written down by Mr. A. Bell. My uncle knew and approved of my wish of preserving a copy of it, and he desired me to get Mr. Bell to do it."

The following memoranda by Miss Forster are from Lord Eldon's own mouth.

" I will tell you what I did one day:—I really was in a great deal of pain, and I wished to beguile the time, and divert my attention, if possible, by any nonsense I could; so as I sat at my window, looking into Piccadilly towards St. James's Park, I counted all the long petticoats that went past, and all the short ones; short petticoats beat long hollow."

" 'I have heard some very extraordinary cases of murder tried. I remember, in one where I was counsel, for a long time the evidence did not appear to touch the prisoner at all, and he looked about him with the most perfect unconcern, seeming to think himself quite safe. At last, the surgeon was called, who stated deceased had been killed by a shot, a gunshot, in the head, and he produced the matted hair and stuff cut from and taken out of the wound. It was all hardened with blood. A basin of warm water was brought into court, and, as the blood was gradually softened, a piece of printed paper appeared, the wadding of the gun, which proved to be half of a ballad. The other half had been found in the man's pocket when he was taken. He was hanged.'

"Ellen (Miss Forster).—'I have always thought it very extraordinary, uncle, the discovery of murders many years after the deed had been committed.'

"Lord Eldon.—'Yes, very. I remember one man taken up twelve years after the deed. He had made his escape; and, though every search was made, he could not be found. Twelve years afterwards, the brother of the murdered man was at Liverpool in a public-house. He fell asleep, and was awoke by some one picking his pocket: he started, exclaiming, 'Good God! the man that killed my brother twelve years ago!' Assistance came to him: the man was secured, tried, and condemned. He had enlisted as a soldier and gone to India, immediately after the deed was committed, and he had just landed at Liverpool on his return, where his first act was to pick the pocket of the brother of the man he had murdered twelve years before. It was very extraordinary that the man waking out of his sleep should so instantly know him. — But the most extraordinary case was at Knaresborough, Eugene Aram: he was hanged twenty years after, and had been living very respectably as a schoolmaster.'"

"'I can assure you, that all the honours, that have been heaped upon me, always came unsought by me. I may safely say, that I never stepped across the kennel out of my way to secure preferment.'"

"'There are two of my sermons tossing about the world somewhere, that I wrote before I married. I sometimes hear of their being preached. I should think no clergyman ever wrote as many sermons as Lord Stowell. I advised him to burn all his manuscripts of that kind. It is not fair to the clergymen to have it known he wrote them. They asked for sermons for particular occasions, to be preached before this or that person; he complied with their requests, and he should not let it be known that he did so.' "

" Speaking of Stalls and valuable pieces of preferment in the Church, Lord Eldon said, 'There is one view of the subject which I take, and I cannot help persuading myself it has a good deal in it. The most valuable works in divinity which we have, have been written by men who held Stalls, or some good preferment: and if they had not done so, those works could not have been given to the public, on account of expense. Now I argue that a man who publishes a learned work, at an expense of probably five hundred pounds, benefits the whole of the Clergy: for, immediately there is a cheap edition, and that, which cost five hundred pounds in the first instance, can be had for three-and-sixpence, and thus is sound learning diffused over all.' "

" 'Religion is a natural feeling of the human mind: and if rulers do not provide proper instructors, and proper places to receive instruction in, the people will provide schism-shops for themselves.' "

" Sept. 1st, 1837. We bade my honoured and revered uncle farewell. We saw him no more; but our intercourse with him by letter continued until the 6th January 1838.—Ellen Forster."

After his return to Encombe, he wrote thus to Lord Sidmouth, in answer to a letter communicating bad tidings of Lady Sidmouth's health.

Lord Eldon to Lord Sidmouth. — (Extract.)

"Wednesday (Sept. 27th, 1837).

"I have received here to-day your letter: and gladdened indeed would have been my heart, if it had contained a better account of my niece, to whom present my love and warmest good wishes.

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"Though I have been moving through a long journey and return from it, I am in precisely the same state of actual constant weakness and pain, which I have now undergone for nearly two long years. I cannot stir without help, and from the moment I am helped into my carriage in a morning I never stir out of it till evening. Pray give my dear niece my most affectionate regards and good wishes. Accept the same yourself. I shall, if God pleases, return to town very soon, and to that as probably my last earthly place of abode. God bless with his choicest blessings my niece and yourself, and believe me,

"Hers and yours most affectionately,

"ELDON."

This was a prophetic letter. On Monday, the 16th of October, Lord Eldon left Encombe,—to see it no more. He proceeded slowly to London, which he reached on the 18th: and though apprised by Mr. Pennington that the country, and the "long columns of air" of which that gentleman had often advised him to try the effect, had failed to produce any improvement of health from which it could be hoped that life had much longer to last, Lord Eldon was so little depressed, that Mr. Pennington, who dined and spent four hours with him on the day after his return to town, described him as having never been more cheerful, or more abundant in anecdote and other pleasant conversation.

CHAPTER LXII.

1837, 1838.

MR. FARRER'S RECOLLECTIONS OF LORD ELDON IN NOVEMBER. — ALTERATIONS IN WILL. — VISIT AND LETTER OF BISHOP OF EXETER. — MR. FARRER'S RECOLLECTIONS OF LORD ELDON IN DECEMBER. — HIS RELIGIOUS EXERCISES. — HIS FINAL DECAY: HIS DEATH-BED: HIS DEATH. — LETTER FROM THE ARCHBISHOP OF CANTERBURY TO THE PRESENT EARL. — FUNERAL PROCESSION: BURIAL IN KINGSTON CHAPEL: FUNERAL SERMONS AT THE CHURCHES ON HIS ESTATES IN DURHAM. — MONUMENTS OF LORD AND LADY ELDON, MR. W. H. J. SCOTT, AND LORD STOWELL. — PORTRAITS OF LORD ELDON AND LORD STOWELL. — LORD ELDON'S FORTUNE: AND WILL.

THE new Parliament met in November; and, "on the 16th," says Mr. Farrer, "Lord Eldon went down in his chariot to the House of Lords to take his seat. I met him as he got out of his carriage. Mr. Butt, who had been Lord Eldon's Mace-bearer, and Smith, his butler, assisted him up the stairs. About half way up, Mr. Butt had a bottle of sherry, and persuaded his old master to take a glass of it. When we came to the door of the House, Smith requested me to support Lord Eldon into the body of the House, which I did. He went up to the Woolsack, and said to the Lord Chancellor (Lord Cottenham), 'My Lord, I am happy to take this opportunity of assuring you that every thing I hear of you entitles you to my sincere respect.' He then went to the table; took the oath, and signed the roll, &c."

The following are Mr. Farrer's memoranda of several conversations held with Lord Eldon, in this advanced period of his life: —

"Speaking of public men, Lord Eldon said, 'The ablest man I ever knew in the Cabinet, was Lord Chatham. He sat apparently inattentive to what was going on; but when his turn came to deliver his opinion, he *toppled* over all the others.' (I particularly observed his use of the word toppled.)"

"'The Chief Commissioner Adam,' said Lord Eldon, 'sent to ask my opinion as to the law upon some point, and referred to a case in Vesey decided by me. I returned for answer, I do not know what the law is *now*, but I am sure, that if I *so* decided, the law was *so* at that time.'

"Another day, when I sat above an hour with Lord Eldon, he told me a variety of anecdotes, political and professional. He inquired whether I had seen the tablet which he had lately put up in St. Nicholas Church at Newcastle. I answered that I had not been there since he put it up. 'I never could persuade my brother,' he said, 'to join me in putting up a tablet. It is not in All Saints, where my father is buried, because they won't permit monuments to be fixed against the walls of that church. — It is a great mistake to suppose my father the poor man of low station, stated in some life of my brother. He was one of the first tradesmen in Newcastle.' Lord Eldon then repeated the inscription, which I imperfectly remember: —

'IN MEMORY OF MR. WILLIAM SCOTT,
FREEMAN AND HOASTMAN
OF THIS TOWN,' &C.

" He laid great stress upon the word freeman as he pronounced it, and he described the hoastmen to be ' a company of the first tradesmen in Newcastle.'

" Lord Eldon," continues Mr. Farrer, " related that Lord Thurlow, after he had concluded an argument, once said to him, ' I was with you, Mr. Scott, till I heard your argument.' "[*] Perhaps it was the recollection of this result that gave Lord Eldon the habit of hearing out the counsel on the side to which his own judgment inclined.

" I asked Lord Eldon," writes Mr. Farrer, " whether he remembered going over to my father's at Clapham [†], to shoot grouse on Ingleborough? ' I remember it as if it was yesterday,' was his reply. ' I finished a long cause at Lancaster late one night, and started off on horseback very early the next morning, and got to Clapham before they went out upon the moors. When we had got upon the moors, before separating into different parties, I called upon all the gentlemen sportsmen then and there present to prove their right in law to wage war upon the grouse, and produced my licence or certificate, read it with much solemnity, and then protested against any other gentleman daring to shoot who could not prove equal authority with myself. Not one of them could produce his certificate.' ' I have heard my father say that you made the whole party laugh so heartily, that they could kill nothing all that day.' ' I believe,' said Lord Eldon, ' they did very little in the way of killing game, and perhaps I might be in some degree the cause, at least they were pleased to say so. I remember we had a very pleasant day of it.'

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[*] See Chap. VI. [illegible]. 135.

[†] In Yorkshire.

" 'I know, Lord Eldon, that you were a great walker, and fond of shooting: did you ever hunt?' 'Oh yes! to be sure I did. I left off hunting because I had a fall one day when I was out hunting on Newcastle moor. I wished to leap into an adjoining field, my horse fell into the ditch, and I tumbled over him. I never hunted afterwards.'

" One day, after dinner, when Mr. Alfred Bell and I were left alone with Lord Eldon, the conversation turned upon his Eldon estate. 'I passed by Eldon,' I said, 'last year: the plantations looked well.' Lord Eldon took up the subject. 'I can tell you how I became a great planter. After I bought that estate at Eldon, Sir John Eden, whose estate joins the Eldon estate, and from whose house you see my hills, came up to me one night in the House of Commons, and said to me, " Mr. Attorney-General, you are rich and I am poor; you are making a large income, and I am spending a small one; you have no time to spare for looking after your estate, and I have abundance of time. Now if you will agree to plant your hills at Eldon, and will find the money, I will find the time to superintend the planting, and will attend to it to the best of my judgment." So upon these terms we set to work; and in that way have sprung up those plantations, which are a great improvement to my estate, and a great ornament to Sir John Eden's residence. Sir John Eden had his picture taken in the dress of a planter, with his spade and other tools.' "

It was not till some weeks after Lord Eldon's last return to town, and when the approaching confinement of Lady Encombe made a removal to London impracticable, that the increase of Lord Eldon's annoyance about the Shirley residence became known to his grandson. Had the actual state of his feelings, and of his health, been communicated in time to Lord and Lady Encombe, they would cheerfully have fixed themselves in London, at whatever inconvenience. His dissatisfaction on this subject may, perhaps, have been one of his motives for revoking a power which, by will, he had given to Lord Encombe, of charging his estates with a sum of 50,000*l.* for the portions of daughters. It was a motive, however, which he seems not to have acknowledged to himself; for he left among his papers an explanatory paper on this subject, endorsed, "Memorandum, not testamentary," which was in these words:—

> "Memorandum. On consideration, I have thought myself perfectly justified, in case of a failure of Lord Encombe's issue male, in preferring, to the fullest extent, my own daughters to the daughters of Lord Encombe, and, therefore, I have revoked the power of charging which I had given to Lord Encombe by my will, considering also that his daughters are otherwise provided for.—Eldon, 6. Dec^r, 1837. This is not testamentary."

This, and other minor alterations by codicil, he was very anxious about completing, and did actually complete, before the 1st of January 1838, because, on that day, the new act "For the Amendment of the Laws with respect to Wills" (7 W. 4. & 1 Vict. c. 26.) was to come into operation: of the effects of which change he entertained great apprehensions. "It was his habit," says his Solicitor, Mr. Alfred Bell, "to have his testamentary papers under constant consideration with me;

As respects the foregoing memorandum, the truth seems to be, that his powers of mind were now failing with his bodily strength; and that thus, as the evening of his life closed in, there were mists of prejudice beginning to rise upon him, which his judgment, when nearer to its meridian, would at once have dispelled. He became more jealous of personal attentions to himself: and he viewed with less indulgence the holders of opinions adverse to his own upon subjects in which he took an interest, especially in the case of those members of the Church Establishment, whom he regarded as having been accessary to the weakening of it. This feeling was not exhibited with asperity; but it was perceptible to those who intimately knew him. It subsisted to some extent, in the instance of Dr. Phillpotts the Bishop of Exeter, who was connected with Lord Eldon's family by having married a relative of his Lady. The Bishop, hearing, in November 1837, of Lord Eldon's declining health, called upon him, conversed with him on the subject of his approaching end, and entered into prayer. Thus far, the Bishop's ministration appears to have been highly acceptable; for Mr. Pennington said afterwards to Mr. Farrer: — "When I called, Lord Eldon, before we had any other conversation, said, 'I have had another doctor since I saw you.' — 'I am glad of it,' I answered. — 'Oh! but he was a spiritual doctor, not a medical. The Bishop of Exeter paid me a visit, and after sitting a little by me and observing me look very ill, he got up and bolted the door, and knelt down by me — "Let us pray," he said. He did pray, and such a prayer! I never heard such a prayer!' Lord Eldon spoke of it in the warmest terms." A few days afterwards the Bishop had the kindness to repeat his visit: and, under the impression that Lord Eldon, in his view of salvation, had an undue reliance on the efficacy of a well-spent life, pressed upon him the necessity of fixing his hopes exclusively upon the merits of our Saviour. But on this occasion Lord Eldon was in a mood of mind less favourable to his visitor, and evinced an indisposition to enter with him upon a subject to which in general he readily addressed himself. The Bishop, with his usual discernment and taste, desisted from urging such an object at such a disadvantage; but very shortly afterwards renewed his communications respecting it, by the following beautiful letter.

"Lord Carrington's, Whitehall,
27th Nov. 1837.

"My dear Lord,

"I take blame to myself for having, as I fear, obtruded on you some important matters of consideration, at a time when you were not prepared to admit them; or in a manner which may have been deemed too earnest and importunate. That you pardon the intrusion, I have no doubt, and that you ascribe what may have been ill-timed, or ill-considered, to the true cause—an anxious wish to lead a highly gifted mind like yours, to those thoughts which alone can satisfy it.

"Before I leave this place, instead of again trespassing on you in person, I have resolved to commit to paper a few considerations which your own powerful mind will know how to improve, and which I humbly pray the Holy Spirit of God to impress, so far as they accord with His Truth, on the hearts of both of us. I contemplate in you, my dear Lord, an object of no ordinary interest. I see a man full of years and honours, honours richly earned (ay, were they tenfold greater than they are), by a life which, protracted long beyond the ordinary age of man, has been employed, during all the period of service, in promoting, strengthening, and securing the best and most sacred interests of your country. I see in you the faithful, zealous, and most able, advocate of the connection of true religion with the Constitution and Government of England. I see in you one who has largely benefited the generation of which you have been among the most distinguished ornaments. Seeing and feeling this, I am sure you will pardon me, if I exhibit a little even of undue eagerness to perform to you the only service which I can hope to render—that of exciting such a mind to those reflections, by which, after serving others, it can now do the best and surest service to itself. In truth, those reflections are few and brief, but most pregnant. In short, my dear Lord, I would seek most earnestly to guard you against the danger which arises from the very qualities which we most admire in you, and from the actions for which we are most grateful to you. That danger is, lest you contemplate these matters with too much satisfaction — lest you rest upon them as the grounds of your hope of final acceptance with God. Oh! my dear Lord, the best of the sons of men must be content, or rather must be most anxious, to look out of themselves, and above themselves, for any sure hope — I will not say of justification, but of mercy. Consider the infinite holiness and purity of God, and then say whether any man was ever fit to appear at His tribunal. Consider the demands of His Law, extending to the most secret thoughts, and wishes, and imaginations, of the heart, and then say, whether you, or any one, can stand before Him in your own strength, when He cometh to judgment. No: it is as sinners, as grievous sinners, we shall, we must appear; and the only plea which will be admitted for us, is the righteousness and the merits of our crucified Redeemer. If we place any reliance on our own poor doings or fancied virtues, those very virtues will be our snares, our downfall. Above all things, therefore, it is our duty, and pre-eminently the duty of the purest and best among us, to cast off all confidence in ourselves, and thankfully to embrace Christ's most precious offer on the terms on which He offers it; He will be our Saviour, only if we know and feel and humbly acknowledge, that we need His Salvation. He will be more and more our Saviour in proportion as we more and more love and rely upon Him. But surely the more we feel and deplore our own sinfulness, the more earnest will be our love, the firmer our reliance on Him who alone is mighty to save. Therefore it is, that, in preparing ourselves to appear before Him, the less we think of what we may fondly deem our good deeds and good qualities, and the more rigidly we scrutinize our hearts, and detect and deplore our manifold sinfulness, the fitter shall we be, because the more deeply sensible of the absolute necessity and of the incalculable value of His blessed Undertaking and Suffering for us. One word only more — of ourselves we cannot come to this due sense of our own worthlessness: and the devil is always ready to tempt our weak hearts with the bait which is most taking to many among us — confidence in ourselves. It is the Holy Spirit who alone can give us that only knowledge which will be useful to us at the last — the knowledge of our own hearts, of their weakness, their wickedness — and of the way of God's salvation, pardon of the faithful and confiding penitent for His dear Son's sake. Oh! my dear Lord, may you and I be found among the truly penitent, and then we shall have our perfect consummation and bliss among the truly blessed.

" I am my dear Lord,
" With true veneration and regard,
" Your Lordship's most faithful servant,
" And affectionate Brother in Christ,
" H. EXETER."

" The Earl of Eldon."

It may well be hoped that the Bishop, probably from the already explained coldness of Lord Eldon's manner toward him, had under-estimated the real nature of his faith; for Lord Eldon, though he may have too much inclined to look on his own good works with complacency, appears nevertheless to have been sensible of the insufficiency of any such reliance. " Towards the close of his life," said Mr. Alfred Bell to the present Earl, " I remember that one day after dinner in the library in Hamilton Place, he beckoned to me to sit by him, and immediately entering into conversation, among other things spoke of his judicial life. He observed that it was a source of great satisfaction to him to reflect that he had never given a judgment in any cause without first anxiously satisfying himself that it was right. 'It is a happiness 'to me,' he said, 'to reflect, that I never gave to A 'the property of B. This is a satisfaction to a man 'at the last, and in looking to the day of judgment.' Upon my observing upon this to the effect that no reliance could be placed upon any thing but upon the merits and blood of Christ alone, he fully acquiesced in the truth of the remark."

The end of this distinguished man now perceptibly approached. The following memoranda give an interesting and graphic representation of him in the few last weeks of his life. The reader is indebted for them to Mr. Farrer.

"December 1st, 1837. — Mrs. Farrer and I dined with Lord Eldon. Mr. Edward Repton was there. Lord E. is certainly declining. He is under the most erroneous impression on some subjects, but still his usual kindness of feeling and desire to be just, with touches of waning pleasantry, show themselves.

"December 18. I went yesterday to dine with Lord Eldon. Upon my saying, 'How are you to-day, Lord Eldon?' he quickly answered, 'Much better for seeing you.' Shortly after I had taken my seat by him he said, 'Encombe has another girl,' and paused; I made some observation, that some of your friends 'perhaps might have wished for a boy.' He calmly answered, 'On these occasions it is better to feel satisfied that whatever the child is, it is for the best. Louisa has done well.'"

"Dec. 20th.—Being engaged to dine with Lord Eldon on this day, I was introduced two or three minutes before the clock in his library struck six. I found him sitting in his large arm-chair, facing the window, his right arm to the fire and his right leg over his left knee. This position he almost invariably kept. To my inquiry after his health, his answer was, 'Very poorly, very poorly,—it can't last long. God's will be done; it is my duty to submit.' These words Lord Eldon spoke in a very earnest tone and manner. I made some observation which he received well, and then turned the conversation to some topic of the day. Dinner was soon announced. I found Lord Eldon was this day more than usually low, and apparently unable to rally his spirits. I foresaw that unless I could give to the conversation such a turn as would raise a train of agreeable associations in his mind, the evening would be spent in a painful silence only broken by observations upon one or two subjects which, in his less happy moments, possessed themselves of his thoughts. When dinner was over, and Lord Eldon had said grace (which he always did with solemnity of voice and manner), and he had been turned in his chair by his butler Smith, so as to have his right hand to the table, and I had placed myself, with my left hand to the table immediately opposite to him, I said, 'Shall I give you a glass of port, Lord Eldon?' 'Yes, a little, if you please; and help yourself. I shall drink the health of Mrs. Farrer.' Pincher now came up, and began to scratch his master's knee. 'Poor Pinchy, poor Pinchy, you want your biscuits.' I selected, from a dish of mixed biscuits, such as Pincher was known to like (indeed he would only eat some particular sorts), and put them within Lord Eldon's reach. When Pincher was satisfied, he laid himself down on the hearth-rug and fell asleep near his master's feet. Observing Lord Eldon feeling for something on the table, I gave him his snuff-box. As soon as he had taken his pinch, he said, 'Do you ever take snuff?' 'Yes, sometimes, but only when I am from home.'—'Ah!' he said, 'for many, many years my poor wife would not allow me to touch it; but I was ordered to take it medicinally.' I then said, 'Why, for many years of your life you could not have had *time* to take snuff.' 'I don't know *that*,' he replied; 'but I know I could not have had *leave*.'"

Lord Eldon having related, in answer to some question from Mr. Farrer, the history of his success in Ackroyd *v.* Smithson, detailed in the first Volume of this biography, Chapter VI.,—another of his early cases, that of the Clitheroe election petition, also at Chapter VI., was thus called by Mr. Farrer to his memory.

"After a few observations upon Lord Thurlow, of whom Lord Eldon delighted to speak, I inquired whether Ackroyd and Smithson was before or after the Clitheroe case. 'Oh before it. There's much curious matter connected with that Clitheroe case that's well worth hearing. Did I ever tell you the history of that case? Let us go into the library, and I'll tell you that too. Be so good as to ring the bell for Smith.' Smith, being come, lifted Lord Eldon from his chair, and, supporting his master under the left arm, whilst Lord Eldon rested his right hand upon my arm, we walked slowly to the library, Pincher going a little before his master, who never moved from room to room without him. When Lord Eldon was seated in his great chair, putting his right leg over his left knee, drawing himself nearer to the fire, reaching his hand for his snuff-box, offering it to me, and then taking a pinch himself, and passing the back of his fore-finger gently across his upper lip, 'As to the Clitheroe case you must know,' said Lord Eldon, 'the way I came in to it was this.'" And then he proceeded to relate what has been already inserted in the first Volume, Chapter VI.

"'There was another case,' he said, 'that did me a great deal of good. It happened at the time when Jack Scott was very much frowned upon at Durham and Newcastle.'" This was the coal-owner's case, Adair *v.* Swinburne, before Mr. Justice Buller, of which likewise an account has been given in Chapter VI.

"Lord Eldon remained some minutes silent. He renewed the conversation by observing, 'Those are times that have long passed away: I am now nobody: I am quite forgotten.' He seemed pleased by my replying, that though he had quitted public life, yet no one was more respected; that the Bar looked up to him with the greatest respect, and referred to his decisions with the greatest deference; and, 'whatever might have been said by opponents when you were in office, every one, even those who were most violent, now do you justice. I do not think you have an enemy.' A little afterwards, I said, 'You seem, Lord Eldon, to have devoted yourself to your profession. Did you belong to White's, or any club?'—'No, I never was a member of White's or Boodle's — I was no club man; I belonged to no club, but a club of University men, who met about once every quarter of a year, to dine together at some tavern in Bishopsgate Street.' — 'But Lord Stowell was a member of more than one club?' — 'Oh, yes, my brother William would go any where, where there was good eating and drinking going on.' — 'Did Lord Stowell take much exercise?' — 'None,' he said, 'but the exercise of eating and drinking.' — The night was now pretty far advanced towards ten o'clock. Lord Eldon had taken his two cups of coffee and isinglass, and it was almost time for me to leave him. I said, 'I am sorry to say, Lord Eldon, I must soon quote Tom Warton.' — 'Poor Tom Warton!' he said, 'he was a tutor at Trinity; at the beginning of every term he used to send to his pupils, to know whether they would *wish* to attend lecture that term. — He wrote an epitaph on West, who was a beadle in the schools at Oxford, and, when the time of the young men's doing exercises was expired, used to call out at the bottom of the stairs, "Tempus *præterlabitur* est." When he died, Tom Warton wrote and put upon his tombstone—

"Hic jacet Thomas West,
Cujus tempus *præterlabitur* est."

Cambridge men, who visited Oxford, amused themselves by quoting this epitaph, to prove that Oxford men were not classical scholars.' — When the clock struck ten I got up, saying, 'Tempus *præterlabitur* est.' — 'Ah! poor Tom Warton,' said Lord Eldon: and offering me his hand, added, 'I am very much obliged to you for this visit. Give my kindest regards at home..'—'I hope, Lord Eldon, you will allow me to come to you again soon.'—'The sooner the better,' was his answer. I then took my leave.

"26th December, 1837. Lord Eldon repeated that he was the cause of Lord Stowell's coming to Doctors' Commons; that his brother, when he, Lord Eldon, had come to the Common Law Bar, thought that he might as well try what he could do as a Civilian."

The Rev. Edward Repton, who frequently dined and passed the evening with him on the Sundays towards the close of 1837, writes thus to the present Earl:—

> "In our conversations in the evening, I never suffered an opportunity to pass of directing his mind to the subject of religion, and at all times found him calmly resigned to the termination of a long, and active, and arduous life."

His servant, Smith, relates that his master, when in bed, was in the habit of praying aloud; and that he read frequently in the large Bible, the gift of Dr. Swire. Toward the end of his life, when it was an exertion to him to rise from his chair, he would call for Smith to get it for him from the shelf.

His disease, if it can be called so, was a mere wasting away of the frame by old age; and his death was not preceded by any remarkable change, or by any access of suffering. He had almost all his life had a tendency to cough; but this seems to have produced no effect on his constitution. In his more vigorous days, if he happened to cough, Lady Eldon would tell him it was only a trick. He would smile and answer, "You know, my dear, I have had a cough these fifty years; but I am none the worse for it."

Until Monday, the 8th of January, he came down to breakfast daily at about eleven or twelve o'clock; but on Tuesday the 9th, he did not appear till two or three in the afternoon. The cold weather was then setting in with severity. Lord Encombe, whose family were at Shirley, came to London on the Wednesday for the purpose of paying a visit in Hamilton Place, and called there at about twelve o'clock. Lord Eldon not having then risen, his grandson called again about three, and, learning that the invalid was still in bed, went up to his apartment. What follows is in the present Earl's own words:—

"I saw him in bed: his looks did not give me alarm; he was perfectly kind in manner, clear in mind, and I think I may add, not otherwise than cheerful, though he did not make any particular effort to talk, but seemed languid and feeble. In about a quarter of an hour, Lady Frances Bankes summoned me away, fearing that if he did not get up before it became dark, he would not get up at all. I returned to Shirley, and proceeded to Addington Park, where I dined with the Archbishop of Canterbury. As I was on the road home about eleven o'clock, my carriage was stopped by a servant, bringing a note from my aunt, Lady Frances, desiring me to come to town directly, in a post-chaise which she had sent. I did so in great alarm, but on my arrival at twenty minutes to one, I saw Lord Eldon comfortably asleep in bed, the family having retired for the night. It appeared, that, after my departure from Hamilton Place in the afternoon, he had got up, and was walking down stairs, about six o'clock, with the assistance of Smith, his butler to hold one arm,—when the strength of his legs failed him: Smith held him up until assistance came, and he was then carried back to the drawing-room looking over Piccadilly, which he had for some years been using as his bed-room; but he was afterwards, at his own desire, carried down to the dining-room, and dined with Lady Frances Bankes and the Rev. George Pickard, who were staying in the house, and with Mr. Farrer. He shivered and complained much of cold during dinner-time. Lady Elizabeth Repton was sent for, and came, with her son, to Hamilton Place in the evening, as did also Mr. Pennington, his medical attendant. Lord Eldon was carried up to bed a little after ten at night, and never left his bed-room again. On the morning of Thursday I was at Hamilton Place by eight o'clock, having slept at my mother's house in John-street. I found Lord Eldon evidently much more feeble, but, in the course of conversation, he seemed interested by my referring to some of the anecdotes which he had related to me formerly. I mentioned the anecdote of King George III. having told his Court that he had what no previous King of England had had, namely, an Archbishop of Canterbury, and a Lord High Chancellor, each of whom had run away with his wife; and added, that Mrs. Howley, the Lady of the present Archbishop, had informed me, as an additional remarkable circumstance, that that Archbishop had then given to the King, as one of his reasons for becoming a Clergyman, that he was not able to afford himself an education for the legal profession; while Lord Eldon, originally intended for the Church when a Fellow of University College at Oxford, had neither wealth nor connexions sufficient to hold out to him a prospect of occupation or advancement in the Church, upon his forfeiting that Oxford Fellowship by his marriage. While I was with him, he asked me after Lady Encombe and our young ones, and I said she had sent him her love, which he desired me to return to her. This having occurred on the Thursday, similar remembrances were again exchanged on the following day. During the Thursday, January 11th, Lord Eldon seemed quiet and composed, though feeble: he saw his family, including Mr. Repton, and my mother Mrs. Farrer, as also Mr. George Pickard, and Mr. Pennington, successively, throughout the day, but had a restless night, and was more feeble the next morning. His family therefore were not permitted by Mr. Pennington to be with him so much on the Friday and Saturday. When Mr. Pennington took me in to see him on the Friday for a few minutes, it being cold weather, the commencement of one of the severest and longest frosts that has occurred for many years, Mr. Pennington said, 'It is a cold day, my Lord,' to which Lord Eldon replied, in a low and placid voice, that it mattered not to him, where he was going, whether the weather here was hot or cold.

" From that time I abstained from going into Lord Eldon's room, until summoned thither during the last few minutes of his existence; Mr. Pennington having expressly desired that he should be as little disturbed as possible, in order that his nights might not be restless, making an exception only, to a certain extent, as regarded those, whom, being resident in the house, it was more of a matter of course that Lord Eldon might expect to see. On the Saturday, January 13th, his strength gradually declined, and he ceased to live at a quarter past four o'clock in the afternoon. He expired apparently without suffering, and I performed the melancholy duty of closing his eyes. There were present also his two daughters, his butler Smith, and a female servant."

The following letter of condolence and consolation was addressed to the young Earl on the 15th, by the highest dignitary of that Church which the departed Statesman had so long and so manfully defended.

The Archbishop of Canterbury to the present Earl of Eldon.

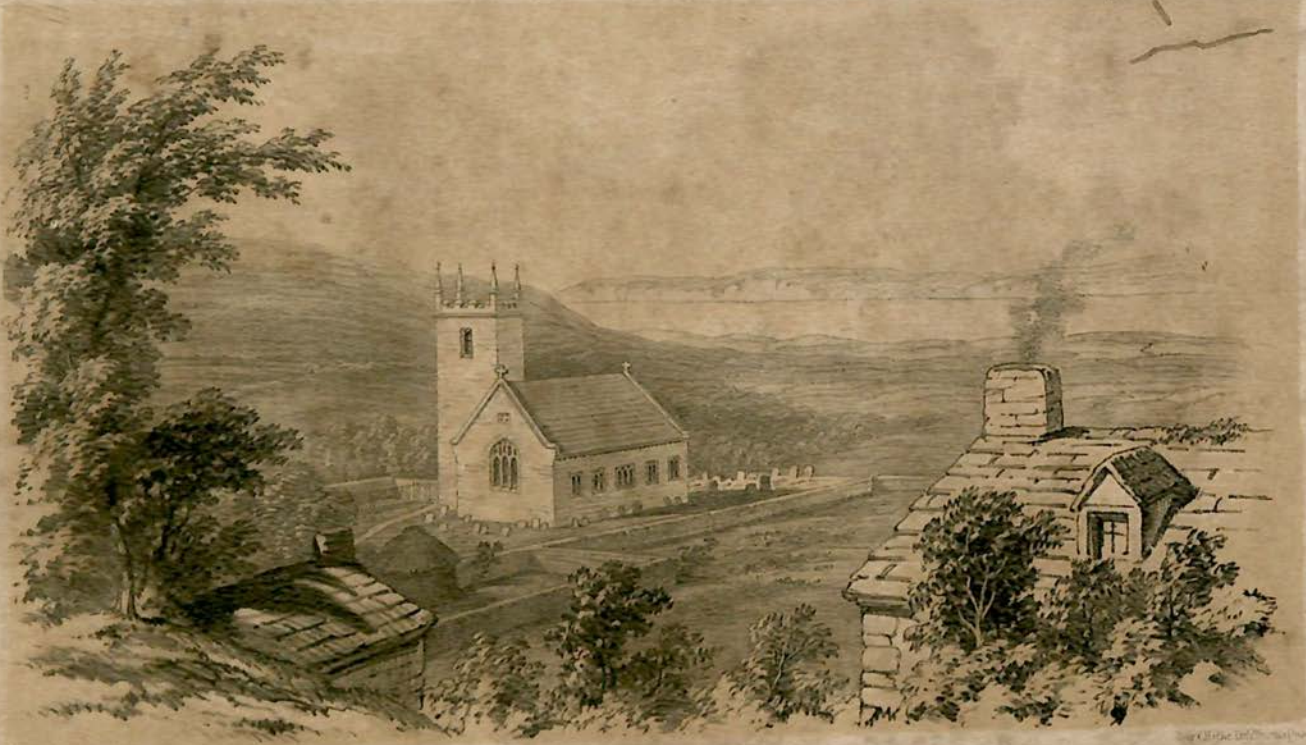
" My dear Lord, . " Addington, Jan. 15th, 1838.

" I am truly obliged to your Lordship for your kindness in immediately giving me intelligence of the melancholy event which took place on Saturday evening. I most sincerely condole with you on the loss of a relation, whom you had every reason to love and venerate. At the same time however that you give way to natural feeling, you must have satisfaction in the reflection, that he has been taken away in a ripe old age, full of years and honours, — that the clearness of his intellect remained unclouded to the last, — and that his name will be for ever preserved in the annals of our history, as a lawyer and judge unrivalled in excellence, and as holding a place in the first rank of those eminent statesmen by whose wisdom and firmness, under the blessing of Divine Providence, this country was preserved from the horrors of desolation and anarchy. Mrs. Howley unites with me in the expression of condolence, and in kindest regards to yourself and Lady Eldon.

" Believe me, my dear Lord, your most faithful Servant,
" W. CANTUAR."

On Sunday the 21st, the remains of the late Earl lay in state. On the coffin were the armorial bearings, and the inscription, " The Right Honorable Sir John Scott, Earl of Eldon, born 4th June 1751, died 13th January 1838."

On the morning of the 22nd, the funeral procession prepared to set forward from Hamilton Place, in its way to Encombe. Before it was ready to depart, a vast crowd had assembled in Piccadilly. The carriages of the Duke of Cambridge and the Duchess of Gloucester, and of most of the dignitaries of the law, as well as of many other noblemen and gentlemen, attended, in addition to those of relatives and of immediate friends. About half-past eleven, the hearse received the body, and moved from Hamilton Place into Piccadilly, followed by the mourning coaches. A majority of the people stood respectfully uncovered, while the closed windows of numerous residences in the neighbourhood gave token of similar veneration and regret. The chief mourner was the present Earl. The funeral line proceeded slowly for some distance along the Hammersmith Road. It then made a halt, and was quitted by the private carriages, which returned to London. The main procession rested on that night at Bagshot, on the Tuesday at Winchester, and on the Wednesday at Wimbourne. On the Thursday morning it reached the family mansion at Encombe, where, during the remainder of that day, the body lay in state. The bell of Winchester Cathedral was tolled by order of the Dean and Chapter on the Wednesday morning, as the funeral moved from the town: and in the more immediate vicinity of Encombe, where the Earl had been generally known, almost every house was wholly or partially closed. Next morning, Friday, January 26th, his remains were borne to the family vault, in the burial-ground of the chapel at Kingston, in which had been deposited those of the late Countess, and of



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KINGSTON, CORFE-CASTLE, DORSET, THE BURIAL PLACE OF LORD CHANCELLOR ELDON.

[illegible]

their son William Henry. A great concourse of the country people had assembled to see the train set forward, and they evinced, in their silent, respectful, and solemn demeanour, their deep regret for their charitable neighbour and generous benefactor.

Thus, after a long and honoured life, was John Earl of Eldon gathered to his kindred. He "came to "his grave in a full age, like as a shock of corn "cometh in in his season."* His memory will live long in the hearts of his friends, — and for ever, in the history of his country.

On the Sunday following, which was the 28th of January, the tenantry of the Eldon estates in the county of Durham,

> "Paid the last mark of respect to the memory of their lamented landlord, by attending at Aycliffe and Shildon Churches, dressed in deep mourning. One division of them assembled on horseback at Eldon, where they were joined by the Rev. James Manisty, Chaplain to the late" and to the present "Earl, and from thence rode in procession to Shildon Church. The Church was hung with black for the occasion, and an appropriate and affecting sermon was preached by the Reverend gentleman, from Acts xiii. 36., 'David, after he had served his own generation, by the 'will of God, fell on sleep, and was laid unto his fathers.' The other division of his Lordship's tenantry assembled at Aycliffe Church, where an excellent sermon was preached by the Rev. J. D. Eade, from Heb. ix. 27. 'As it is ap'pointed unto men once to die, but after this the judg'ment.' The feeling of attachment and veneration, universally entertained among this highly respectable body of tenantry towards their late noble landlord, was strongly manifested upon this solemn occasion, and fully justifies the remark which has been made, 'that few public men 'have ever descended to the grave so sincerely lamented as

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* Job, v. 26.

'Lord Eldon.'—We have reason to believe that the evening of his life was cheerful and happy. He used often to express the anxious wish, that he might have a little interval between the woolsack and the grave, to prepare for eternity:—and this prayer was granted."—*Durham Advertiser,* Feb. 2nd, 1838.

In Kingston chapel, parallel with a mural monument erected by Lord Eldon in 1834 to the memory of his lady and his sons, the present Earl has placed another *, bearing a brief record of his grandfather's history, and a medallion beneath, by Sir Francis Chantrey. The following are the inscriptions of these two tablets:—

SACRED TO THE MEMORY OF
ELIZABETH COUNTESS OF ELDON,
THE ELDEST DAUGHTER OF THE LATE AUBONE SURTEES, ESQ.
OF NEWCASTLE-ON-TYNE:
SHE DIED THE 28TH OF JUNE 1831, NEARLY 77 YEARS OF AGE.
HER REMAINS WERE FIRST DEPOSITED
IN THE ANCIENT CHAPEL IN THIS PLACE,
AND AFTERWARDS REMOVED TO A FAMILY TOMB
BUILT ON GROUND BELONGING TO THE EARL OF ELDON,
SITUATE ON THE NORTH SIDE OF THE CHAPEL YARD,
SUCH GROUND BEING FIRST DULY CONSECRATED
BY THE LORD BISHOP OF BRISTOL.
THIS TABLET IS PLACED HERE BY AN AFFECTIONATE HUSBAND
TO THE MEMORY OF A WIFE
TO WHOM HE WAS MOST DEVOTEDLY ATTACHED,
AND WITH WHOM HE LIVED IN MARRIAGE
NEARLY FIFTY-NINE YEARS.
IT PLEASED GOD DEEPLY TO AFFLICT HIM
BY ORDAINING THAT HE SHOULD SURVIVE HER.

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* The present Earl has moreover obtained permission of the Warden and Fellows of New College, Oxford, to place in their Ante-Chapel a memorial of his kinsmen, Lord Eldon and Lord Stowell, which is to consist of the figures, in marble, of these two distinguished Judges.

IN THE SAME TOMB
ARE ALSO DEPOSITED BY THE SIDE OF HIS MOTHER,
AT HIS OWN EARNEST REQUEST
MADE TO HIS FATHER IN HIS LAST ILLNESS,
THE REMAINS OF THEIR SECOND AND MUCH-BELOVED SON
THE HON. WILLIAM HENRY JOHN SCOTT,
WHO DIED ON THE 6TH DAY OF JULY 1832,
IN THE 37TH YEAR OF HIS AGE.
HE WAS IN SEVERAL PARLIAMENTS
A MEMBER OF THE HOUSE OF COMMONS.
THE HON. JOHN SCOTT, M.P.
THE ELDEST SON OF THE ABOVE-NAMED FIRST LORD AND LADY ELDON
DIED ON THE 24TH DAY OF DECEMBER 1805,
IN THE 31ST* YEAR OF HIS AGE,
UNIVERSALLY ESTEEMED AND LAMENTED
AND TO THE INCONSOLABLE GRIEF OF HIS AFFLICTED PARENTS.
HIS REMAINS, ACCORDING TO A DESIRE THAT HE HAD EXPRESSED,
WERE INTERRED AT CHESHUNT IN HERTFORDSHIRE.
HE LEFT AN ONLY SON JOHN,
NOW COMMONLY STYLED VISCOUNT ENCOMBE,
BY HIS WIFE HENRIETTA ELIZABETH, DAUGHTER OF
SIR MATTHEW WHITE RIDLEY, BART. OF BLAGDEN †
IN THE COUNTY OF NORTHUMBERLAND.

THE RIGHT HONORABLE SIR JOHN SCOTT
EARL OF ELDON
BORN AT NEWCASTLE-ON-TYNE JUNE 4TH 1751
DIED IN LONDON JANUARY 13TH 1838 IN THE 87TH YEAR OF HIS AGE.

IN 1766 MR. JOHN SCOTT ENTERED AT UNIVERSITY COLLEGE OXFORD, OF WHICH HE BECAME A FELLOW IN 1767. HAVING MARRIED, NOV. 19TH 1772, ELIZABETH ELDEST DAUGHTER OF AUBONE SURTEES ESQUIRE OF NEWCASTLE-ON-TYNE, HE ENTERED IN 1773 AS A STUDENT IN THE MIDDLE TEMPLE, WAS CALLED TO THE BAR IN 1776, AND WAS CALLED WITHIN THE BAR BY A PATENT OF PRECEDENCE IN 1783. IN 1787 MR. SCOTT WAS MADE CHANCELLOR OF THE BISHOPRICK AND COUNTY PALATINE OF DURHAM. IN 1788 HE WAS KNIGHTED AND APPOINTED SOLLICITOR GENERAL, AND IN 1793 WAS APPOINTED ATTORNEY GENERAL. AFTER HAVING SAT IN FOUR PARLIAMENTS AS A MEMBER OF THE HOUSE OF COMMONS, HE WAS CREATED A PEER, JULY 18TH 1799, BY THE TITLE OF BARON ELDON OF ELDON IN THE COUNTY PALATINE OF DURHAM, AND ON THE FOLLOWING DAY WAS APPOINTED CHIEF JUSTICE OF THE COMMON PLEAS. ON THE 14TH OF APRIL 1801 LORD ELDON WAS APPOINTED LORD HIGH CHANCELLOR OF GREAT BRITAIN; HE RESIGNED THAT OFFICE FEB.

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* "31st" should have been "32nd" on the marble.

† "Blagden" should have been "Blagdon" on the marble.

7TH 1806, BUT WAS RE-APPOINTED APRIL 1ST 1807, AND CONTINUED TO HOLD THE GREAT SEAL UNTIL APRIL 30TH 1827, BEING ALTOGETHER A PERIOD OF NEARLY TWENTY-FIVE YEARS. ON THE 7TH OF JULY 1821 HE WAS CREATED EARL OF ELDON IN THE COUNTY PALATINE OF DURHAM, AND VISCOUNT ENCOMBE OF ENCOMBE IN THE COUNTY OF DORSET. LORD ELDON WAS THE YOUNGEST BROTHER OF THE RIGHT HONORABLE SIR WILLIAM SCOTT, JUDGE OF THE HIGH COURT OF ADMIRALTY &C., WHO WAS CREATED BARON STOWELL JULY 17TH 1821, AND WHO DIED JAN. 28TH 1836 IN THE 91ST YEAR OF HIS AGE. THE OFFICE OF STEWARD OF THE UNIVERSITY OF OXFORD WAS HELD BY LORD ELDON FROM 1801 UNTIL HIS DECEASE.

TO HIS BELOVED AND HONORED MEMORY
THIS TABLET IS DEDICATED BY HIS GRANDSON AND SUCCESSOR
JOHN THE SECOND EARL OF ELDON.

There is another monument in the Temple church, comprehending on one tablet, two separate scrolls, to the memory of Lord Eldon and Lord Stowell respectively. The inscriptions set forth the dates of their births and deaths, and the names of the offices they filled; and beneath are these words: —

THE TREASURER AND MASTERS OF THE BENCH OF THE
HONORABLE SOCIETY OF THE MIDDLE TEMPLE
DEDICATE THIS TABLET TO THE MEMORY OF THESE
HIGHLY DISTINGUISHED BROTHERS.
1839.

The features of both brothers had long been familiar among the leading professors of painting and sculpture. The principal portraits for which they appear to have expressly sate, exclusively of mere pencil drawings, are as follows: —

1798–1799. A portrait, in plain clothes, of Lord Eldon, then Sir John Scott, Attorney-General, by Mr., afterwards Sir Thomas Lawrence.* It belonged to Lord Eldon himself, and is now in the possession of the present Earl, in Hamilton Place.

1798—1810. A portrait of Lord Stowell, then Sir William Scott, robed as Judge of the Admiralty, by

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* See Chap. XV. Vol. I. p. 339. It is engraved for this work.

Hoppner. This is in the hall of University College, Oxford.

1811—1816. Three pairs of full-length portraits, by Owen. Of these, the three which represent Lord Eldon are identical, and exhibit him seated in his robes as Lord Chancellor.* In the other three, also identical, Sir William Scott is seen seated and robed as Judge of the Admiralty. One of these pairs was painted for the Corporation of Newcastle-on-Tyne, in whose Guildhall that pair was placed in 1816. A second pair, which belonged to Sir William, and which was, after his death, presented by his daughter, the late Viscountess Sidmouth, to the University of Oxford, is in the Bodleian library there. The third pair is in the possession of the present Lord Eldon, in Hamilton Place.† There is also a fourth portrait of Lord Eldon, by Owen, which is identical with the first named three, and now in the possession of the present Earl. A portrait of Lord Eldon, as Chancellor, by Owen, is also in University College Hall, Oxford; the head is identical with those above mentioned, but the figure is not at full length, the size of the canvass being smaller: in that respect it corresponds with the portrait of Sir William Scott, by Hoppner, to which it is a companion.

1824–1825. Portraits of Lords Eldon and Stowell, a pair, both in plain clothes. These were painted by Sir Thomas Lawrence, for Sir Robert Peel, who now has them at his house in Whitehall Gardens.

1825—1828. Portrait of Lord Eldon, painted by

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* See letter of Lord Eldon to Dr. Swire of Sept. 22nd, 1812.

† The portrait of Lord Chancellor Eldon, one of that pair, is engraved for this work.

Sir Thomas Lawrence for King George IV., who placed it, where it still is, in the corridor of the private apartments at Windsor Castle.* Lord Eldon told the present Earl that the King, who had been much pleased with Lawrence's earlier portrait of him as Attorney-General, desired that this picture for Windsor Castle might be executed in the same plain style of dress and general arrangement, which has been done accordingly.

1827. A portrait of Lord Stowell, as Judge of the Admiralty, by Phillips, which is in the Parliament Chamber of the Middle Temple.†

1831. A portrait of Lord Stowell, by Phillips, at Corpus Christi College, Oxford, where Lord Stowell obtained the Durham Scholarship.

1833. Portrait of Lord Eldon, painted by Pickersgill for Merchant Tailors' Hall, where it now is.

1834—1836. Portrait of Lord Eldon at his library table, painted in triplicate, by Briggs, for Mr. Thurlow, Lady Elizabeth Repton, and Lady Frances Bankes.‡

1837. Picture representing Lord Eldon and Lord Encombe at the Oxford installation, by Briggs; in the possession of the present Earl in Hamilton Place.§

Lord Eldon sate also to Tatham for the stone statue which occupies the niche in the front of the Eldon School at Vauxhall, founded in 1829.

Both Lord Eldon and Lord Stowell sate to Behnes, the latter in 1824, the former in 1831, for their busts, executed for the Middle Temple, whence both of them had been called to the Bar; these are now in the Society's Hall. The present Earl has duplicates of them in Hamilton Place by the artist himself.

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* It is engraved for this work. † It is engraved for this work.

‡ See Chapter LX.

§ See Chapter LXI. It is engraved for this work.

From these numerous likenesses, executed at so many different times, an accurate idea may be collected of Lord Eldon's personal appearance throughout the middle and latter periods of his life. In his early years he had been considered handsome. The marking feature of his countenance was his bushy overhanging brow, which gave a character of profound thought to his features, without at all overcasting their cheerful, placid, benevolent expression. His figure was of the middle size, light and active; and his attire and appointments neat and unostentatious.

He left to his family a noble fortune. An account of his emoluments, from his appointment to the Great Seal in 1801, until his resignation of it in 1806, — and from his return to it in 1807 until his final retirement in 1827, — was made by the late Mr. Pensam, one of his secretaries, and shows that the total of what he received from his Court and from the Speakership of the House of Lords, was an average of 17,566*l.* per annum in the first period, and of 16,118*l.* in the second. This latter receipt must be reduced (with reference to the fourteen years 1813 to 1827) by 2500*l.* a year, the sum which, by the act constituting the Court of the Vice-Chancellor of England, was made payable to that office from the fees of the Great Seal. If, after this deduction, which amounts to 35,000*l.*, the aggregate receipt be divided by 25, for which number of years, wanting only about five weeks, Lord Eldon was Chancellor, the result will be an average of 14,718*l.* per annum for the whole period.—His investments were in land, in the funds, and on mortgage. "He used to say," relates Mr. Bell, "that his purchases into the stocks and his sales out of the stocks were never made (as his bankers could testify) except in the simple and usual course of business—never by way of speculation, or with reference to any particular public event or circumstance."

The will, by which he disposed of his great possessions, occupied seventy-four sheets (inclusive of a schedule), and is dated the 24th of June 1836. By this instrument, he gives his Dorsetshire estates to Lord Encombe for life, remainder to Lord Encombe's first and every other son successively in tail male; and for default of such issue, they are settled in moieties upon the testator's two daughters, Lady Elizabeth and Lady Frances,—with remainders in tail to sons in succession and then to daughters as tenants in common in tail,—and cross-remainders in tail between the families of Lady Frances and Lady Elizabeth. The Durham estates, subject to the settlements of them before made on the marriage of Lord Encombe and on other occasions—under which settlements the Durham estates were settled upon Lord Encombe for life, with remainders to his first and every other son successively in tail male—are given to the same uses in favour of Lady Elizabeth Repton and Lady Frances Bankes and their families, as the Dorsetshire property. The leasehold house in Hamilton Place is given to Lord Encombe for life, with remainder to his first and other sons successively; and, in default of such issue, becomes part of the testator's personal residue. Several large sums of stock are settled upon the testator's two daughters and their issue. To Lady Elizabeth and Lady Frances are left also some specific articles; and life-annuities are given to each. Pincher, described as "my favourite dog," is bequeathed to Lady Frances, with an annuity of 8*l.* during his life, "to provide food for the said dog."—"And I direct," continues the testator, "that I may be buried in the same tomb at "Kingston in which my most beloved wife is buried, "and as near to her remains as possible; and I de-"sire that the ring which I wear on my finger* may "be put with my body into my coffin, and be buried "with me." He then directs that his daughters may be buried in the same tomb, at the expense of his estate. He bequeaths 500*l.* to his niece, Mrs. Forster (which he afterwards, by a codicil, converts into a life-annuity to her of 100*l.*), and 500*l.* to her daughter, Miss Ellen Forster: and adds various legacies to servants and others. The general residue of his personal estate he directs to be invested in the purchase of lands, to be settled to the same uses as the Dorsetshire estates. A schedule is annexed, enumerating various articles, which the will directs to descend with the estate in the nature of heir-looms, and to which the first codicil directs some additions. These heir-looms are chiefly busts, portraits painted and engraven, letters of the Royal Family, the watch, chain, and seal given to him by King George III., various snuff-boxes, the salvers having the Great Seal set therein, the tankard given to him by

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* The mourning ring for his wife.

George IV., addresses and other testimonials and tributes to his public character, his law books, the robes and lace worn by him as a Judge and as a Peer respectively; and, adds he, the service of plate which I had on my appointment as Lord Chancellor." There are several codicils, by which various other legacies are given, and which make further provisions for his daughters and their families, with other dispositions and modifications not necessary to be here particularised. The third codicil, which contains but a few lines, is wholly in his own hand-writing: it regards his butler, Smith, and ends with the words, "To his services to me, and his character, I cannot "but bear the highest testimony." The executors were, the present Earl, — Mr. Francis Cross, the Master in Chancery, now deceased, — and Mr. Alfred Bell, of Lincoln's Inn Fields, the testator's solicitor. The two latter were constituted the trustees throughout the will and codicils.

CHAPTER LXIII.

I. CHARACTER OF LORD ELDON AS A JUDGE IN EQUITY AND ADMINISTRATOR OF THE GREAT SEAL.

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ITY: FIRMNESS.—HIS RISE IN THE STATE INDEPENDENT OF THE USUAL QUALIFICATIONS FOR PARLIAMENTARY SUCCESS: NATURE OF HIS POLITICAL ENDOWMENTS: ABSENCE OF IMAGINATIVE POWER: CONSUMMATE JUDGMENT: DEFECTIVE ORATORY: ADAPTATION FOR BUSINESS OF HOUSE OF LORDS: VIGOUR IN CABINET, AND SUCCESSFUL ISSUES OF HIS COUNSELS.

I. 1.

WHEN Mr. John Scott came to the Bar, the attainment of distinction there, by any extraordinary exhibition of industry and ability, was so much more open than it afterwards became under the influences of favouritism and connexion, that, qualified as he was both by nature and by acquirements, he could hardly fail to attain eminence and fortune. He possessed, beyond all his immediate competitors, and in a degree never surpassed, the principal faculties which make a great and successful lawyer: a clear and ready apprehension — a memory quick and retentive — a judgment which neither perplexity nor sophistry could confound—an industry never enervated by luxury, and never distracted by passion. These qualities, unaccompanied (and perhaps in his case fortunately) with any thing like eloquence in the florid or showy sense of the word, ensured his rapid rise at the Bar, and eminently fitted him for the high seats which he filled on the Bench.

It would be idle to attempt any gauge of a great lawyer's learning. The subject is not of a nature to be defined by any precise outline, and particular quotations would give no notion of it. In truth, the matter is one of those upon which the only good evidence is reputation: and, touching Lord Eldon, this reputation is uniform. Sir Samuel Romilly, adverse as he was to Lord Eldon in politics, and pushed by the Opposition into a sort of rivalry with him in the law, yet acknowledged, in a speech already quoted (7th March 1811), not only that he was a Judge of a conciliating demeanour, and a strict love of justice amounting even to an over-anxiety, but that no man could be found who was more "eminently qualified, in point of talents "and learning, for all parts of his profession." That was the testimony of 1811. Ten years afterwards, that profound no less than acute lawyer, the present Lord Chancellor of Ireland, Sir Edward Sugden, in dedicating his great work on Powers to Lord Eldon, used these strong expressions: —

> "I naturally paused before I ventured to solicit the high sanction which your Lordship's permission to affix your name must give to any treatise on English law. I felt the presumption of addressing such a request to a Judge who has so often excited the admiration of the Bar by a display, without effort, of an extent of knowledge in every branch of jurisprudence, which the life of man appears to be insufficient to acquire." *

The general judgment of the legal profession, eighteen years later, when the death of Lord Eldon had removed all influences, whether of interest or of party feeling, is correctly summed up by Lord Brougham in a vigorous passage, which, after a recapitulation of Lord Eldon's great natural aptitudes for legal attainment, proceeds thus: —

> "It is needless to add, that he became one of the most thoroughly learned lawyers who ever appeared in Westminster Hall, if not *the most* learned: for, when it is recol-

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* See also the passages hereafter quoted from Mr. Butler's "Reminiscences," from Mr. Jarman's dedication to his edition of "Powell on Devises," from Mr. Swanston's Preface to his Reports, &c. &c.

lected that the science has been more than doubled in bulk, and in variety of subjects has been increased fourfold, since the time of Lord Coke, it is hardly possible to question his superiority to that great light of English jurisprudence,— the only man in our legal history with whom this comparison can be instituted. A singular instance of his universality, and of the masterly readiness with which his extensive learning could be brought to bear upon any point, was once presented in the argument upon a writ of error in the House of Lords. The case had run the gauntlet of the Courts, and the most skilful pleaders, as well as the most experienced judges, had all dealt with it in succession: when he, who had not for many years had the possibility of considering any such matters, and had never at any time been a special pleader, at once hit upon a point in pleading which appeared to have escaped the Holroyds, the Richardsons, the Bayleys, the Abbots, the Littledales; and on that point the cause was decided." *

It is certainly true, that with all this learning, and with all the extraordinary faculties which he could bring to the direction of it, Lord Eldon had about him a disposition to hesitate, which in his judicial character amounted to a defect: much exaggerated indeed by his political adversaries, but still a defect. Not that he was slow in making up his mind: for, as was said by Mr. Brougham in the debate of May 1826, on the measures of Chancery Reform introduced by Lord Lyndhurst (then Attorney-General), —

> "With Lord Eldon's excellent judgment and most eminently endowed understanding — with such high capabilities of forming his decision — it was impossible that he could be long in *making up his mind;* he was only long, and slow, and hesitating, in *giving his opinion.*"

The Chancellor, continued Mr. Brougham (certainly no partial observer),

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* Statesmen of Geo. III., Second Series, p. 65.

> "Has a mind large and capacious, filled with ample stores of learning drawn from every source, but more especially with the learning of his profession, — and can bring his faculties, which are great, in the smallest time, to bear on the largest and most difficult questions. It would therefore be strange, if that Noble and Learned person could not see through the greatest difficulties: as, indeed, it is well known he often does at a glance."

His reluctance to pronounce quickly what he had quickly conceived and resolved, had no effect upon his reputation in the first two years of his judicial life, which were passed at the head of the Common Pleas: for, as has already been observed*, a Common Law Judge, when presiding *in a jury court*, has no interval allowed him between the close of the case at the Bar and his own address to the jury: and *in Bank*, he is associated with three other judges, to whose average rate of dispatch he must needs adapt himself. Lord Eldon, therefore, being precluded while he remained Chief Justice, from indulging his foible, was then held by the Profession to be a Judge without a fault. When he attained the Great Seal, he was enabled, indeed, from the more difficult and complicated nature of suits in Equity as compared with those at Law, to evince powers of mind still more extraordinary than those which he had exhibited in the Common Pleas; but the additional admiration excited by these great faculties was then, for the first time, a little shaded by his *occasional* tendency (for after all it was seen but in comparatively few cases) to hesitate about his final decision. Such a tendency was thought the less reasonable, because, except himself, there was nobody who doubted the correctness of his conclusions. Still, however, in the earlier years of his Chancellorship, before the length of his official tenure, and the influence possessed by him with two successive Sovereigns had made him the broad, continual mark for political attacks, this single failing was the subject of no serious complaint. One of the earliest, and certainly one of the most quick-sighted of the commentators on his judicial course, was Sir Samuel Romilly, who, in his Diary, 8th March 1811, has the following memorandum: —

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* Chap. XV. p. 340.

> "What has passed to-day in the Court of Chancery affords a strong exemplification of my assertion of yesterday, that the Lord Chancellor was *over*-anxious to decide properly. He has, for a long time, had a great number of cases which have been argued before him, waiting for his judgment to be pronounced — some original causes, and many more motions and petitions. The distress, which is occasioned to many parties by this, is hardly to be conceived. On this day three cases were, by his order, put into his paper, for him to deliver his judgment. Of two of them he merely directed that they should stand over till the following Monday, without giving any reason. The third was a case of Foster *v.* Bellamy. It was a bill filed by a pauper to redeem a very old mortgage, the plaintiff alleging that he was heir-at-law to the mortgagor. The defendant disputed the fact of his being heir, and the plaintiff had gone into evidence to prove his title; but the evidence was so unsatisfactory, that all that I, who was counsel for the plaintiff, could do, was to ask that an issue might be directed to try the fact of his being heir. Of this case, which had been argued before the long vacation, the Lord Chancellor said to-day, that he had read all the evidence over, three several times, and that he did not think that there was sufficient proved to warrant his directing an issue: but that, as it was the case of a pauper, he would go over all the evidence once more; and for that purpose he directed the cause to stand over generally, without appointing any time for his final determination. He thus condemns all the other

impatient suitors to continue waiting in anxious expectation of having their causes decided, till he shall have made himself quite sure, by another perusal of the depositions, that he has not been already three times mistaken." *

Sir Samuel Romilly, however, had before confessed himself thoroughly alive, in his own person, to the responsibility of deciding upon the rights of others. The truth is, says he in his Diary, Aug. 1807, that, for the last two or three years, I have "declined, "as much as I well could, the giving of opinions;" and he assigns, among his grounds for that unwillingness, the importance "that one's opinion should be right; "for in many cases it has the effect of a decision to the "parties, and in others it involves them in expensive "litigations." † If this be a reason why a Barrister should decline to give an opinion, some indulgence may be claimed for the hesitation of a Judge in pronouncing a decree, which may transfer a fortune or waste it in an appeal.

A livelier notice of the Chancellor's over-dubitative turn was the extempore of Mr., now Sir George, Rose, who being asked by the regular legal reporter to take a note of a case for him during his absence, entered in the note book, at the end of the day, the following account of what had been passing in the Chancellor's Court: —

Mr. Leach
Made a speech,
   Angry, neat, but wrong:
Mr. Hart,
On the other part,
   Was heavy, dull, and long:

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* Memoirs of Romilly's Life, vol. ii. 371, 372.
† Vol. ii. 225.

Mr. Parker
Made the case darker,*
  Which was dark enough without:
Mr. Cooke
Cited his book,
  And the Chancellor said—"I doubt."

This pleasantry found its way to the Chancellor, who was much amused with it, and had soon an opportunity for as humorous a retort. The next time Mr. Rose had to argue an untenable case, Lord Eldon, after stating the law, concluded by saying to him, "For these reasons, the judgment must be against your client; and *here*, Mr. Rose, *the Chancellor does not doubt.*"

Lord Eldon had held the Seal but a few years, when the great start which this country had made at the beginning of the present century, in her foreign and domestic commerce, was felt in a heavy accumulation of the judicial business relating to matters of property. In 1812, the subject was brought by Lord Redesdale before the Upper House of Parliament; and in 1813 the redoubled arrears, in the House of Lords as well as in the Court of Chancery, induced the Legislature to pass a Bill for the constitution of a new Judge, under the title of Vice-Chancellor, in addition to the Lord Chancellor and the Master of the Rolls.

No sooner did this appointment of an additional Court hold out to the public a prospect of increased dispatch, than a new tide of business flowed in. Fresh bills were filed in greater numbers, — causes which had long slumbered were promptly set down for hearing, —and in no very long time the state of the Court was more oppressive than ever.

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* Every body will perceive that the author of these stanzas uses this word for the rhyme's sake only, without the least intention to imply that the learned counsel was a man likely to darken any of the cases entrusted to him in his very extensive practice. "Parker" happened to chime with "darker:" — if the counsel had been a Mr. Rayner, the report would assuredly have run, "Made the case *plainer*."

Meanwhile, party feeling had begun to mix itself in the subject. Lord Eldon, by his personal influence with George IV., had become, as under the preceding Monarch, the main stay of the Administration, and consequently, the great obstacle to the advancement of the Whigs; and they fastened upon the defective state of the Court over which he presided, as a means of discrediting him, and through him, of breaking down the Government. The attack was got up with all the strength of the Opposition. The subject was taken out of the hands of Mr. M. A. Taylor, who had for many years been pressing it, — not indeed very powerfully or judiciously, but with perfect freedom from personal or political acrimony, — and was transferred to the abler conduct of Mr. John Williams, then Member for Lincoln, who has since become successively a Baron of the Exchequer, and a Judge of the Queen's Bench. In the two sessions of 1823 and 1824, he led the charge with impression and effect. He was zealously aided in debate by the chief political lawyers of his party. The most influential organ of the Whig press, the "Edinburgh Review," took up the leading points, and worked them in two strenuous articles.* In short, from the commencement of this warfare, till after Mr. Williams's second motion which produced the appointment of a Government Commission to consider the means of abridging the expenses and delays of Chancery, no pains were spared, either in or out of Parliament, to fix the Chancellor with the obloquy of all that was amiss, in any department of his Court or in the state of any of the causes there. The tendency to doubt had probably grown upon him with advancing age; and it certainly led him, in some cases of novelty or complexity, to postpone his judgments from sitting to sitting, until the uneasiness of the suitors, at the long interval between the hearing and the decision, produced reasonable and loud complaint. But the great cause of delay was one wholly unconnected with the Chancellor's hesitation,—the length of time, which, from the vast increase of the business and the want of a sufficient number of Judges to dispose of it, was of necessity interposed between the setting down of the cases and the hearing of them. The business continued to spring up faster than any human exertion could keep it down. The unavoidable delay, thus endured by *all* suitors in waiting *for their turn to be heard*, was confounded with that other and less defensible delay, which *a few* endured in waiting for judgment *after* hearing; and the aggregate blame of *both* these delays was heaped upon the Chancellor, who was properly responsible but for the latter.

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* October 1823, and January 1824.

In order, then, to deal justly with the imputation of dilatoriness, it is necessary to keep the question as to arrears of *particular judgments after hearing*, wherein Lord Eldon's default must be acknowledged,—quite distinct from the larger subject of the *general arrear of matters waiting to be heard*, on which his case is an impregnable and a triumphant one.

I. 2.

.. First, then, as to the narrower question touching the arrears of *particular judgments after hearing.* Now, in entering upon this head of complaint (as to which, though there is an undeniable foundation of truth, the exaggerations have been quite extravagant,) it is but reasonable to bear in mind what was observed by Sir Robert Peel*:

> That "if Lord Eldon's delay had been one arising from his indulgence in pleasure or in frivolous amusements, it would have been a subject of just reprehension; but where a man was seen devoting twelve out of the twenty-four hours, without remission, to the public business, and allowing himself no longer a vacation than three weeks out of fifty-two, it would be but fair to pass with a light hand over the venial fault of him who decided slowly, from the peculiar constitution of his mind and his ultra anxiety to decide justly."

When Mr. Williams, in his speech of the 4th of June 1823, opened the charge against the Chancellor to the House of Commons, a considerable prejudice was raised by an enumeration of six cases, which, in that speech, were represented to have been pending in Chancery for many years, with most grievous cost, vexation, and injury, to the parties interested. And yet, *no fewer than five of the six were actually cases, with the delay of which the Chancellor was totally unconnected.* The reader will find, on examining Mr. Williams's statement with the answers of Sir Robert Gifford (then Attorney-General), and of Mr. Courtenay, (now Earl of Devon, then a Master in Chancery,) and the evidence as to the cause of Oldham *v.* Cook, taken before the Chancery Commission of 1824, pp. 171, 172, that in all those instances, except that of Ware *v.* Horwood, the delay was occasioned either by the *laches* of the suitors themselves, or by the length of time which, from the great number of prior matters set down to be heard, was necessarily interposed before these particular cases could arrive at their turn for hearing. It is only in the sixth instance, that of Ware *v.* Horwood, that there appears to have been any delay for which the Chancellor could be accountable. That case produced an extraordinary impression on the House of Commons and on the public, by reason of the following letter to the Chancellor from the solicitor for some of the parties: —

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* Debate upon the Court of Chancery, 18th May 1825.

"Ware *v.* Horwood. — My Lord, — My clients have great reason to complain of the great injury suffered by them in consequence of these causes not keeping their station at the head of your Lordship's paper, agreeably to your Lordship's order, repeatedly given in my hearing. It is now nearly seven years since they have been waiting for your Lordship's judgment; and upwards of two years ago they had arrived at the top of the paper, at which place I humbly entreat they may, until you can decide upon them, remain. There is a fund of 10,000*l.* and upwards, locked up in court until your Lordship decides in these causes, and it is therefore matter of great importance to my unfortunate clients that your Lordship's decision may not be delayed by the circumstances to which I have above alluded. It is painful to me to state to your Lordship that I have learnt, from authority which I have no reason to doubt, that the infant, for whose benefit these suits were instituted twenty years ago, died of a broken heart on account of being kept out of his property, and that I have to contend against the bitter feelings of his relations. Under these distressing circumstances, knowing that your Lordship will pardon the liberty I have taken in thus addressing you, and which nothing but the imperious necessity of the case would have induced me to have done, I have the honour," &c.

The "Edinburgh Review" of October 1823, after giving this letter, proceeds thus: —

> The solicitor "was immediately sent for to the private room of the Chancellor; and attendances on his Lordship, upon this very singular and special mission, were charged to the client in his bill of costs, one item of which ran in the following form: — 'To attendance upon his Lordship in his private room, when his Lordship begged for further indulgence till to-morrow.' The thing went on: his Lordship, having begged and obtained a further respite, was at length as good as his word; and, with the spur in his side, made a decree." — Page 259.

On these facts the observation, it must be confessed, is not an unfair one, that, unless the Chancellor had been conscious of an indefensible delay, he would not have received without rebuke an application so irregular as the solicitor's letter. But, while it is fitting that a particular neglect, fairly chargeable, should be here frankly acknowledged, it is not fitting that the case should be left with a husk of mis-statements around it, calculated only to produce odium and to make a groundless impression of general laxity. The reader is therefore requested to carry on his attention to some further circumstances and considerations connected with this much-noted instance of delay.

When the statement in the solicitor's letter became known to the public by means of Mr. Williams's speech, another gentleman, who had been, but was then no longer, in practice as a solicitor, was provoked by the intrinsic improbability of the allegations to investigate the facts; and the result of the inquiry made by him, from the friends of the deceased and from the medical man who attended his death-bed, was, that no pretence existed for coupling his death with the Chancery suit at all.

He was a gardener at Peckham; and died at twenty-three, impressed with a feeling that he had been guilty of sins which excluded him from all hope of salvation. Under that feeling he suffered deeply; but he made not so much as an allusion to the Court of Chancery or to any of its judges. "During his infancy," says the gentleman who made these inquiries,

> "There had been spent for his maintenance and education 466*l.*, which was paid to his uncle Charles, he having been allowed that sum by the report of a Master in Chancery, dated the 1st day of July 1822. The infant in his will disposes of what, 'if any thing,' should come to him from the Chancery suit relating to his father's affairs; and the sum of 10,000*l.*, ingeniously made use of in the letter, seems to have been, as regarded this infant suitor (exclusive of what was due to his uncle for maintenance), about 134*l.* From searching at Doctors' Commons, I find that his uncle Charles, who was administrator to his father, administered to this infant's estate, sworn not to exceed 600*l.*; and out of this 600*l.*, 466*l.* was due to this uncle, which had been expended upon the infant during his minority, he never having received or been in a situation to receive any thing out of Court in his lifetime; and therefore 134*l.* was all the infant's interest in the suit, unless we can suppose his uncle Charles to have sworn to a false amount on taking out letters of administration. I find, on searching at the proper office, that this infant was never arrested, and I cannot learn that he was ever known to be in pecuniary difficulties."*

It is true, no doubt, as is remarked in the before-quoted page of the "Edinburgh Review," that

> "Whether the infant was dead or alive, is — for the purposes for which the statement was made, to prove the fact of delay — as immaterial as whether he wore a blue coat or a brown. Had the cause existed twenty years? Had there

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* "Observations on the Judges of the Court of Chancery, and the Practice and Delays complained of in that Court" (a pamphlet, published by Mr. Murray, Albemarle Street).

been 190 attendances by solicitors, for the benefit, of course, of their clients? Did the solicitor, from the urgency of clients, dead or alive, or from the outrageous nature of the dilatoriness, feel himself driven to such a state of desperation as to write such a letter? Was such an astonishing liberty overlooked — nay, more, was it instantly acted upon? Did the Lord High Chancellor condescend to become a suitor to a solicitor of his own Court, for the favour of a day's delay, and was such a favour graciously vouchsafed? Can it be accounted for, except from a consciousness of personal imputation being well-founded, that the writer of such a letter was not instantly reprimanded, and with the utmost severity?"

The duration of the cause *before* the hearing, and the number of attendances dwelt upon in this extract, are fully as unimportant to the judicial character of Lord Eldon (which is the only matter here in discussion), as the question whether the infant was dead or alive is justly considered by the Reviewer to be. They were evils wholly irrespective of the Judge's diligence, whose duty does not *begin* till the case can be brought on before him. But is the allegation that "the infant "died of a broken heart on account of being kept out "of his property," in reality an unimportant one? To the question whether in this particular case Lord Eldon's delay of judgment was unreasonably long, the truth or falsehood of this part of the story may not be, and is not, a material circumstance; but it is a *very* material circumstance *indeed*, for the purpose of showing the sort of aggravation with which his doubts and delays were monstered to the public. As a further illustration of this hostile spirit, it may be mentioned, that while the solicitor for the plaintiff was composing his fabulous chronicle of the suffering infant's death-bed, an equally zealous gentleman, concerned for some of the other parties, attempted to represent the decree, thus pronounced upon pressure, as having been obtained surreptitiously; inasmuch as the plaintiff's solicitor had waited upon the Chancellor on the subject of it in his private room. This insinuation indeed was disavowed in the debate on Mr. Williams's motion; but not until Mr. Courtenay had explained that the interview in the private room, instead of having *preceded* the decision, had taken place *after* judgment pronounced, and simply in consequence of the Chancellor's having required from the solicitor, according to very usual practice, some details which were necessary for formally reducing the decree into writing. Lord Eldon himself adverted to the subject in open Court, expressing his opinion that this practice was a proper one, and declaring that he should always feel himself bound to follow it, with the view of making the decrees of the Court as accurate as possible.

Mr. Denman mentioned, in the adjourned debate on the same motion, another case, the name of which does not appear, but which was very remarkable in its circumstances. There had arisen, under a bankruptcy, a question on which the Chancellor had deemed it necessary to ask the opinion of two Common Law Judges. Their answer did not satisfy his doubts, and he consulted two other Judges. While the judgment stood over, the banker, who held the funds distributable in the bankruptcy, failed; and that proportion of his assets, which belonged to the estate of the original bankrupt, was paid to a new banker. The two Judges, who had been last consulted, concurred with the two others: but the Chancellor was still unconvinced, and before he could make up his mind, the second banker also failed; so that there remained for the creditors but the dividend of a dividend of a dividend. Now these facts, peculiar and unfortunate as they certainly were, yet no more affect the real question of blame to the Chancellor, than did the death of the infant in the before-mentioned case of Ware *v.* Horwood. In order to inculpate the Chancellor, it should have been shown that a long delay intervened between the hearing and the first of the references to the Judges, or between the first and second of those references, or between the answer to the second reference and the failure of the second banker; and that during such delay, the attention of the Chancellor had been called to the case by at least one application. Further, it has been very justly remarked by the author of the before-quoted pamphlet, called "Observations on the Judges of the Court of Chancery," that it was the fault of the creditors themselves that they did not call upon the assignees to invest this money in Government securities, instead of leaving it at hazard in the hands of private bankers. On application to the Commissioners, the investment would have been ordered as matter of course.

The case of Collis and Nott was also mentioned by Mr. Denman on the same occasion. It had been argued in 1817; the parties had suffered it to sleep till Hilary Term 1823; and then the Chancellor, being pressed for a decision, found that he had forgotten the circumstances of it. The case was re-argued; and at the time of the debate, which was in the summer of the same year, it remained still undecided. Now, although this last delay of one term was nothing very unreasonable, yet it is not to be denied that the former delay, from 1817 to 1823, if the fault had rested wholly with the Chancellor, would have been incapable of justification on his part. But the fault in such cases can hardly rest altogether with the Judge. It will not generally be blameable in him to defer a judgment for a term or two: and where he forgets or otherwise omits to discharge himself of the case within that time, the parties owe it to themselves, considering the multiplicity of the avocations which divide his attention, to remind him, once at least, that his decision is expected. If this be wholly neglected by them, as seems to have been the case in Collis *v.* Nott, they themselves become partakers with the Judge in the responsibility of the delay. Mr. Colville, the registrar, says, in a note to the writer of these pages, "If judgments remaining are not specially applied for after a time, we are very much in the habit of concluding that the cases have been settled, in consequence of what may have dropped from the Chancellor in the course of the argument, neither party probably being over anxious to have full judgment actually pronounced." This conclusion of a suit was very common in Lord Eldon's Chancellorship; because with all his caution about delivering any opinion in the nature of a *binding* decision, he was in the frequent habit of intimating his own view on the argument of Counsel, and from that view he scarcely ever departed in pronouncing the formal judgment of the Court. The Law Magazine records an observation made, by Sir Samuel Romilly, touching this habit of Lord Eldon. Upon one occasion, "in a case of very considerable importance, his Lordship spoke for nearly two "hours, and was listened to, as he always was, with "the most marked attention by all the Bar." At the close he said he would take home the papers and read them carefully, and would tell the parties on a future day what his judgment would be, — having in substance and essence pronounced that judgment in the very address he was then concluding. "Sir Samuel "Romilly rose from his seat, and, turning round to "the gentlemen behind him, said, 'Now, is not this "'extraordinary? I never heard a more satisfactory "'*judgment*, and yet the Chancellor cannot make up "'his mind.* It is wonderful,' continued Sir Samuel; "'and the more so, because, however long he takes "'to consider a case, I scarcely ever knew him to "'differ from his *first impression*.'" †

A similar opinion was expressed by Mr. Brougham, who had great practice before Lord Eldon in the House of Lords ‡; and so well was the value of this "first impression" understood by the solicitors in the Court of Chancery, that, as was said by Mr. Whitton, one of the most experienced and practical among them, on his examination before the Chancery Commission, "If the parties get an intimation of my Lord's opinion on the point in the cause, all the rest becomes *a matter of course*." § When this intimation had been obtained during the argument upon a motion or exception, and the solicitors were satisfied, the Chancellor can scarcely be regarded as culpable, if he did not put aside other matters of urgency to complete a judgment, of which nobody seemed to be in want, and of which the substance had been already given out by him.

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* Probably Sir Samuel Romilly's phrase may have been, the Chancellor cannot make up his *decision*; for the very point of the observation was that he *had* made up his *mind*.

† Law Magazine, No. xiii.

‡ Parl. Deb. 18 May 1826, and 27 Feb. 1827.

§ Report, printed by order of the House of Commons, 9 March 1826, p. 75.

It appears, then, that among all the instances of delay imputed to Lord Eldon by Mr. Williams in the debate of 1823, a clear blame attached to the Chancellor only in the one case before mentioned, of Ware *v.* Horwood. But another year having been taken to gather grievances, Mr. Williams came to the debate of 24 February 1824, provided with a fresh set of counts for his indictment. He had given himself, indeed, a wide range in order to collect his evidence; for, of the five additional instances, as to which he was able in 1824 to show that there had been an excessive delay of judgment on the part of the Chancellor, two were cases on which the Chancellor's decision had been obtained so long before as 1823,— Dudley *v.* Freeman, and Copis *v.* Middleton;—on another not specified by name*, the decision had been given in 1821; and in another, Cobb *v.* Lord Mountford, the dates were not stated. In the fifth, Lord Moira *v.* Wyatt, there had been a compromise, of which the date did not appear. Beside these, a sixth was mentioned†, but with this last the Chancellor had never had any thing to do, the cause having been compromised without coming before him at all. Still, however, it did thus appear, that *during a period of between three and four years*, preceding this debate, there had really been, beside the before discussed case of Ware *v.* Horwood, five instances in which the Chancellor had laid himself open to a very just imputation of delay.

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* Parl. Deb. Feb. 1824, pp. 386, 387.

† Ibid., pp. 385, 386.

Mr. Williams did not omit on that occasion to notice also those matters (being causes, rehearings, or appeals) which were *still* waiting for judgment. The names of them were, Wienholt *v.* Logan, Nunn *v.* Agutter, Attorney-General *v.* Mansfield, Cocks *v.* Lord Somers, and Powell *v.* Mouchet. The last he himself stated to have been only part-heard; in which stage it was not even ripe for judgment. In the last but one, that of Cocks *v.* Lord Somers, the hearing appears, from the Court papers, in the Appendix to the Chancery Report, p. 744., to have been completed but so lately before as the 4th of *that same month* of February in which Mr. Williams made his statement; so that it had been ripe for decision only a few days. The hearing of the Attorney-General's suit against Mansfield appears to have been completed but on the 17th of the *preceding* month; so that it had been ripe for a decision only between five and six weeks.* The hearings of Nunn *v.* Agutter, and Wienholt *v.* Logan, appear to have been completed respectively on the 11th and 12th days of December, 1823†; so that, exclusively of the Christmas vacation, the judgments in them had been waiting little more than two months. At the moment, therefore, when the Chancellor was thus assailed by the Whig opposition for the heart-breaking arrear of his judgments, the whole number appearing to be due was four, and the greatest length of alleged arrear was from December to the following February.

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* Appendix, pp. 738.

† Appendix, pp. 733, 734.

The cases mentioned by Mr. Williams were only causes, rehearings, and appeals. These, being the heaviest classes of business, were the most likely to include cases on which the judgments would be deferred for consideration. If there were at that moment any other matters of weight on which the judgments were then in arrear, it is not to be supposed that the accusation would have been confined to causes, rehearings, and appeals.

The Chancellor and the Government having consented, in this debate of the 24th of February 1824, to issue a Commission for inquiring into the means by which time and expense might be saved to the suitors in Chancery,—and the responsibility being thus shifted from the individual Chancellor to the whole body of Commissioners,—the delays of Chancery lost, for some time, their value as a party topic, and the sympathies of the Opposition for the suitors became proportionally obtuse.

In the following year indeed (1825, May 31), while the Commission was still sitting, Mr. Williams presented to the House of Commons some petitions, six in number; but he thought it necessary to preface his statement, not only by declining to ground any motion on them, but by disclaiming all responsibility for the truth of their contents. In the first of these,—the petition of Samuel Palmer, in which there was alleged a delay of judgment from December to March,—the blame to the Chanceellor turned not on the actual length of time, which was by no means excessive, but on the fact of his having made repeated promises to give his decision, and failed to keep them: and this, if taken to be true, which, however, Mr. Williams declined to vouch, would unquestionably have been a valid cause of complaint against him, on account of the repeated fee chargeable by the solicitor for attendance in court on each morning when the cause stood for judgment in the paper. But in all the other five of the petitions then presented by Mr. Williams to the House, the circumstances complained of were such as, whether true or not, reflected no sort of blame upon the Chancellor; who, indeed, will be found, upon the very face of them, to have been so clearly unconnected with the matters they disclose, that it is needless to trouble the reader with any thing more than a simple reference to them as they stand in the Parliamentary debates of May 31st, 1825.

There was at one time a story in circulation, about "his deferring his judgment so long in a "case of foreign fruit, that the counsel told his "Lordship they would not trouble him further, as "the fruit was all spoilt and thrown into the sea." This may be an amusing tale, but it is a groundless one. The judgment appears from the report to have been given instantly upon the argument; and as to the spoiling of the fruit, the fact is, that the parcels of fruit in question had, long before the commencement of any litigation, been delivered to the plaintiffs, whose suit in Chancery had no relation to the fruit itself, but was framed for an injunction and discovery, in order to stay, under particular circumstances, an action which had been brought at law for the price of the article so delivered.*

The Chancery Commission of 1824 brought to public notice another instance of a judgment unreasonably delayed, of which it may be proper very briefly to state the circumstances. It was in the case of Erskine *v.* Garthshore, mentioned by Mr. Leake on his examination before that Commission. From November 1816, when the Chancellor heard it, expressing his opinion and promising to give the judgment in form within a few days, the parties had allowed the matter to sleep until 1820; and as the Chancellor had at the hearing intimated his view, which was generally found to satisfy the parties without a formal judgment, there had been no great reason to suppose that the formal judgment would ever be called for. On this occasion, however, the matter was not destined to adjust itself after the usual fashion; for in May 1820, Mr. Leake, who was himself one of the solicitors in the cause, wrote to the Chancellor, "humbly entreating" his Lordship's judgment. Meanwhile the papers having been removed (it does not appear how or when) from the table which the Chancellor allotted to his unfinished judgments, he had dismissed the cause from his mind as one that had been settled between the parties themselves. He wrote the following answer to Mr. Leake: —

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* Cousins v. Smith, 13 Ves. 542.

> "In the case of Erskine v. Garthshore, the papers were long ago taken from my table. I have desired Mr. Hand * to make an inquiry for them; and, understanding from your note that I have been mistaken in supposing that that cause was arranged, as soon as I get the papers I will dispose of it.
>
> "Yours with much respect,
>
> "ELDON."

It should seem that the papers were never recovered: for, at the time of Mr. Leake's examination in 1825, the judgment had not been given, which, after such an application, it would surely have been (as in the instance of Ware *v.* Horwood), if the materials for it had not been extinct.*

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* An official attendant of Lord Eldon.

The delay complained of by Mr. Leake as having occurred in another case, that of Fitz Gerald *v.* Balfour†, does not properly fall within the scope of this inquiry into the list of judgments unreasonably delayed; because, though the Chancellor, from December 1817 to November 1821, was repeatedly pressed to pronounce a *judgment* upon this case, he had already, in July 1817, *made* an *order* upon it, by which he held it to have been finally decided.

Mr. Leake instances also a delay of judgment upon an important motion in the case of Waters *v.* Taylor: but this delay, though apparently not to be justified, had been of no more than a few months' duration.‡ In another part of his examination, he assigns a reason for the delays between hearing and judgment, which goes some, though not a great way, to exonerate the Chancellor,—namely, the inconvenient habit, prevalent among the Counsel in leading business, of flitting from court to court, so as often to be absent during the arguments upon which they have to reply. Mr. Leake truly says,

> "This induces great confusion; and the judge has no other alternative (as it would seem to me) but to either have the cause or motion properly and regularly reargued before him by the counsel on each side, in the presence of each other, or to postpone his judgment until he has had an opportunity of reading or looking into the pleadings and

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* Chancery Commissioners' Report, pp. 454, 455.

† Ibid., p. 153.

‡ Ibid., p. 156.

documents relating thereto, and by such means ascertaining what are the real facts of the case upon which he is called upon to pronounce judgment; and the consequence is, that judgment is so often postponed, owing to the pressure of other (perhaps equally important) business from day to day, that one half of the time of the Court is occupied in applications for the decision of the Court, or in re-stating or re-arguing, and not unfrequently in some other shape, the causes or motions which have been formerly heard by the Judge in the manner and under the circumstances I have already described."

Four other cases of excessive delay were mentioned by Mr. Williams to the House of Commons on the 18th of May 1826; but there were only two of them in which that delay arose from postponement of the decision. In another of them the judgment had been given, though the minutes had not been handed to the Registrar to draw the order or decree in form: and in the fourth case, it does not appear that the appeal was ever brought to hearing.

The instances of really blameable delay, which the industry either of patriotism or of party has been able specifically to point out, whether in Parliament, or in the "Edinburgh Review," or before the Chancery Commission, have been thus particularly noticed, not with any view of justifying the Chancellor's admitted deficiency in some of these particular cases, but for the purpose of reducing the exaggerated representations of his opponents to the simple dimensions of truth. "Many judgments," observes Mr Colville, the registrar, in a communication to the writer of this biography, "were delayed, by the occasion for supplemental bills, amendments in pleading, and other points of procedure, which were not perceived to be necessary till the defect was discovered by Lord Eldon himself." It was to be lamented, no doubt, that *any* cases should have occurred in which his delay of judgment gave *just* cause of complaint; but a list of eight or ten judgments blameably deferred, among several thousands dispatched, will go very little way to make out the charge brought against him of delays so accumulated by his fault as to choke the main stream of the Court's business. Moreover, as the Lord Chancellor could not appear at the Bar of the House of Commons, to possess that popular body with the technical reasons for particular doubts or particular delays, even the cases specified are far from carrying the weight of a charge established after a hearing of both sides. It ought likewise to have occurred to his accusers, that if he had sought only his own credit with the world, instead of considering the interests of justice, it would have been his policy to dispatch, at whatever disadvantage to the abstract integrity of legal doctrines, every matter which was beginning to look at all stale in his paper, and then there would have been no obviously strong cases to fasten upon. But it is a remark, and a very material one, of Mr. Colville, that "Lord Eldon never affected a great show of work; never selected that portion of business which strikes the eye; — to use a common phrase amongst us, he did a great deal of work that does not count."

When any body ventured to observe upon the extremely small proportion, which the few instances of judgments in arrear bore to the great mass of business dispatched, it was artfully answered that a host of examples would have been procured, but for the fears of solicitors and suitors lest their public virtue should be visited upon their private interests. Times have been, when that argument would have had some weight; but, in these days of publicity, no man fears foul play by reason of any offence given by him to a Judge of any of the supreme tribunals. On the contrary, it is well known to all who have seen any thing of practice in those Courts, that if any description of suitor or solicitor exists to whom a greater latitude is permitted than to his neighbours, — who is sure to have all his right and a little indulgence into the bargain, — it is that sort of person who makes himself notoriously troublesome and obnoxious, — whom the Judges, acting, as they do, in the broad light of public observation, are a little apt to lean *towards*, precisely from suspecting themselves to lean *against*.

" Ay, but if I am not prejudiced in Court," an unnamed solicitor is supposed to have said, " I shall be-" come a marked man in the surrounding offices, and " my business will be traversed and impeded." * No solicitor who had had *much* business could well have fallen into such an error. The truth of the case is much more nearly approached in Mr. Field's pamphlet of 1840, called " Observations of a Solicitor on the Equity Courts," † where a leading officer of the Court is stated to have remarked, that there were only two classes (of solicitors) for whom the officers would put themselves out of their way, — " gentlemen, to oblige them; and *blackguards, to get rid of them*."

But the insinuation about the numerous cases in the back ground may be met by a more specific kind of answer. As the stir which had been made by the

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* Mr. Williams's speech, House of Commons, 24th Feb. 1824.

† Page 64.

Whigs in 1823 and 1824, and the consequent appointment of the Chancery Commission in the latter of these years, would naturally induce the Chancellor, especially if at all conscious of any previous slackness, to use more than ordinary exertion *in and about* that period, for the purpose of avoiding the appearance of arrear in his judgments, it may be presumed that the greatest accumulation would have been just *antecedent* to the time selected by his opponents for their attacks. Reference has therefore been made to the Register Office of the Court of Chancery, for the purpose of ascertaining what, during the four years beginning with the outset of the legal year in Michaelmas Term 1820, and ending with Trinity Term 1824, was the number of his judgments in arrear at the commencement of each several term; and, by the kindness of Mr. Colville of that office, this information has been obtained as to every kind of business, except the motions, — of which no permanent record is preserved. The account is as follows: —

Number of cases waiting for the Lord Chancellor's judgment on the first day of each term, from Michaelmas 1820 *to Trinity* 1824.

1820	Michaelmas,	20.	1823	Hilary,	27.
1821	Hilary,	20.	——	Easter,	25.
——	Easter,	21.	——	Trinity,	23.
——	Trinity,	23.	——	Michaelmas,	24.
——	Michaelmas,	20.	1824	Hilary,	25.
1822	Hilary,	24.	——	Easter,	24.
——	Easter,	26.	——	Trinity,	26.
——	Trinity,	26.			
——	Michaelmas,	23.			

The result is, that the *largest* number of judgments which, at the commencement of any one term during this long period, were in arrear from Lord Eldon, upon appeals, rehearings, causes, future directions, pleas, demurrers, exceptions, and petitions,—that is, upon the aggregate of all business except motions, was 27; the *smallest* number, 20; and the number upon the *average* of all the terms, between 23 and 24.

The list of each term was generally more or less reduced before the term succeeding, which brought, of course, a new list of its own. Thus, at the commencement of the term which immediately *preceded* Mr. Williams's enumeration of judgments in arrear, that is, Hilary Term, January 1824, there had been 25 cases waiting for judgment. On the 24th of the next month, February, when Mr. Williams made his motion, there were standing for judgment, according to his own showing, no more than five cases, one of which, Powell *v.* Mouchet, was admitted by him to have been not then heard out. Another, Cocks *v.* Somers, had been heard *since* the first day of the preceding Hilary Term, and would therefore have no place among the 25 cases which, on that day, were waiting for judgment, but would fall into the list of judgments due on the first day of Easter Term. Thus the list of 25 cases, waiting for judgment on the first day of Hilary — that is, in January — will appear to have been reduced by the Chancellor, by the 24th of February, to the number of 3. And so with respect to the judgments of preceding terms.

It has often been said *, Lord Eldon could decide fast enough on political questions. True; because on political questions there are usually no binding precedents. What made Lord Eldon hesitate in his legal judgments was the frequent difficulty of reconciling the equity of the particular case before him with the general doctrines established by the decisions of his predecessors. On the question respecting the disposal of Bonaparte's person, he *did* doubt and long deliberate; because that case, though a political one, was a case to be decided not solely by considerations of public justice and expediency, but in accordance also with the settled obligations of international law.

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* See Lord Brougham's "Sketches of Statesmen," Second Series, pp. 60, 61.

"During my Chancellorship," says Lord Eldon himself in his Anecdote Book, "I was much, very much blamed for not giving judgment at the close of the arguments. I persevered in this, as some thought from obstinacy, but in truth from principle, from adherence to a rule of conduct, formed after much consideration what course of proceeding was most consonant with my duty. With Lord Bacon, 'I confess I have somewhat of the cunctative,' and, with him, I thought that 'whosoever is not wise upon advice than upon the sudden, the same man is no wiser at fifty than he was at thirty.' I confess that no man ever had more occasion than I had to use the expression, which was Lord Bacon's father's ordinary word, 'You must give me time.' I always thought it better to allow myself to doubt *before* I decided, than to expose myself to the misery *after* I had decided, of doubting whether I had decided rightly and justly. It is true that too much delay before decision is a great evil; but in many instances, delay leads eventually to prevent delay; that is, the delay, which enables just decision to be made, accelerates the enjoyment of the fruits of the suit: and I have some reason to hope that, in a great many cases, *final* decision would have been infinitely longer postponed, if doubts as to the soundness of original judgments had led to rehearings and appeals, than it *was* postponed, when infinite care, by much and anxious and long consideration, was taken to form an impregnable original decree. The business of the Court was also so much increased in some periods of my Chancellorship, that I never could be confident that counsel had fully informed me of the facts or of the law of many of the cases; and there may be found not a few instances, in which most satisfactory judgments were pronounced, which were founded upon facts or instruments with which none of the counsel who argued the cases were acquainted, though such facts and instruments formed part of the evidence in the cause. One remarkable case was —— and Legard.* This had been heard at the Rolls, and an elaborate judgment given upon it. A case was sent to the Court of King's Bench for the opinion of the judges, and they certified their opinion after an elaborate argument. The cause then came on, upon further directions, before another branch of the Court of Chancery, and judgment was given. This produced an appeal to me as Chancellor. The matter was long and ably argued; — but, before the Attorney-General, afterwards Lord Gifford, replied, I took the papers to my house, and afterwards, going into court, I stated that the cause might stand over for a week: and then mentioning certain circumstances which I had discovered from the papers, and which had never been

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* The cause of Johnson v. Legard, which, according to Turner and Russell, 281, went through all the stages here recapitulated by Lord Eldon, is probably the case to which he refers, though the discovery made by himself is not mentioned in that report.

"mentioned in the course of any of the hearings, I put it to the Attorney-General to tell me, at the end of the week, whether, instead of there having been such a judgment as was appealed from, there ought not to have been, upon the very first hearing, a dismissal of the bill. When the matter was again mentioned in court, it was admitted by all parties that such ought to have been, and must be, the end of the suit.—In the last session, 1827, there was an appeal from the judgment of the Vice-Chancellor in a cause to set aside a lease, as having been improperly obtained from a landlord by his steward and attorney: the bill treating the lease as good at law, but that, being so obtained, it should be declared in Equity to be void. After all the arguments in the Court below and at the bar of the House of Lords, I called for the lease. It was then found not to be a good lease at law, and that Equity had nothing to do with it."

That the deliberation bestowed by him upon his judgments had the effect, which in the foregoing extract he ascribed to it, of saving the parties from the expense and delay of re-hearings and appeals, was admitted by Mr. Brougham in the debate of 5th June 1823; who, in impeaching the credit usually given to Lord Eldon for the fewness of the appeals from his Court to the House of Lords, assigns this odd reason, that "his judgments were known to be given *so advisedly*, that he would not hastily change them."

Mr. Basil Montagu, in his evidence before the Chancery Commission, 22nd July 1825 *, refers to a case of Ex parte Blackburn, which he had argued two or three times, and in which he had been quite satisfied with the validity of his own argument. He says,—

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* Report, pp. 411, 412.

> "I mentioned it again and again to the Court, but I could not obtain judgment. At last the Lord Chancellor stated that he had been deliberating upon the case for many hours during the night, and that there was one point which had escaped me in my argument, to which he wished to direct my attention; and he was pleased to direct my attention to it, and to desire it to be re-argued: and upon re-arguing it, I was satisfied that he was right and I was wrong; and whatever may have been the cause of the delay, the consequence has been that he has prevented the injustice which I should have persuaded him to have committed."

In the House of Lords, on one occasion, when the cases printed for the use of the Peers had omitted certain essential particulars, Lord Eldon said,—

> "It will be a consolation to me, during my remaining life, knowing that it has been said that I have been dilatory in decision, that I have, by looking at the original instruments, saved to the right owner many a landed estate, which would otherwise, probably, have been given to his adversary."*

About 1833, at dinner in Merchant Tailor's Hall, he related, to Mr. John Atkins, this example of the benefit resulting from his known practice of perusing the papers in suits of difficulty:—"Lord Abergavenny," said Lord Eldon, "told me he once compromised a suit, because his attorney had told him there "was in his case a weak point, which, though the opposing parties were not aware of it, *that old fellow* "would be sure to find out if the case came before "him."

Conversing on these subjects with Mrs. Forster, he said to her, "I was often accused of slowness in my decisions, but really it was sometimes incompatible with justice to decide quicker. Now I will tell you what happened in one case: it was a cause where one party had sold an estate, and the purchaser had afterwards declined completing the bargain, and the estate was thrown back on the seller's hands; this was a suit to compel the completion of the sale and the payment of the purchase-money. Well, it was argued before me at great length, and extracts from various documents were read in court, and I was then pressed by the counsel to deliver my judgment the following day. I refused to do this, stating that I made a rule to read over and consider *all* the written documents brought into court, and that, as there was an important question to be discussed that night in the House of Lords, I should be unable to do this before the next morning. The counsel, however, still pressed me, observing that it was so clear that the purchase must be completed, that a decision to that effect would satisfy all parties. I, however, refused; I examined the papers that night, and when I went into court in the morning, I called the counsel, and said, "Gentlemen, I will not fix to deliver my judgment in this cause to-morrow, but I will fix to-morrow week, in order to give *you* time to consider a point to which you have not adverted in your arguments. The question is, whether this gentleman is to be compelled to complete the purchase. Now I am of opinion that he cannot be compelled, because the possessor of the estate has no power to sell; if you will look at the *whole* of the papers I examined last night, you will find this to be the case. At the end of the week the counsel came and said, 'We give in; we have nothing to say against the fact your Lordship has pointed out.' It was quite necessary never to trust to the lawyers; it is their business to make a good case for their clients; it was mine to administer justice."

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* Ruscombe *v.* Hare, 6 Dow, 16.

The following passages occur in a letter without date, from Lord Eldon to the Rev. Matthew Surtees:—

"That I may be the object of malignity, and that I shall continue so to be, after what has passed, nobody can doubt: the victim of it I will not be. I thank God I have something of the *bene actæ vitæ recordatio*, which affords me a consolation which the world cannot take away: and, when I am gone, perhaps that world may be disposed to do more justice to my memory than, whilst I am yet in it, I can deem to be probable; though I can assure you I receive from many parts of the kingdom, and from strangers to me, what would relieve me from the uneasiness which what has been passing might have created, in the mind of a man doubting whether he had done his duty to the best of his power.

"My habits of doing judicial business I have formed and adhered to upon principle and upon conviction that they were right; I have done much good by adhering to them — infinite good.

"As to what I hear of my *doubts*, from persons who, having no doubts upon any subjects, however intricate and difficult, set up as the Ductores Dubitantium, I console myself by recollecting what a most eminent Chancellor in France" (D'Aguesseau) "said to his son.*

"The truth is, I don't like to risk, by velocity, transferring property from those to whom it belongs, to those who may apparently, but not really, have a title to it.

"Be assured that glad as I should be to retire, I will never retire in compliance with the views of the malignity which assails me."

The Anecdote Book has these further notices of the same subject:—

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* See the quotation hereafter, p. 415.

"I have before recorded that I thought it my indispensable duty, as a Judge in Equity, to look into the whole record and all the exhibits and proofs in causes, and not to consider myself as sufficiently informed by counsel. This, I am sure, was right,—not only because, in causes originally heard before me, I learnt much of what was necessary, of which counsel had not informed me, but because, upon re-hearings of causes before me, which had been originally heard by others, this, my opinion, was strongly confirmed. With respect to what obtained in judgment as to this, before Lord Kenyon and others my predecessors, it ought to be observed, that the briefs of counsel, as prepared by the old solicitors of the Court, though not half so voluminous as briefs in later days, contained frequently a very complete abstract of all that was material of fact, and a statement, usually very accurate, of all that was material in law and precedent, thereby counsel being enabled, notwithstanding the hurry of business, fully to inform the Court in those days."

"Lord Thurlow told me that he made it a rule always to hear the counsel who were to support in a cause that opinion in favour of which he had received an impression. I asked him what had led him to adopt that rule. He said that if counsel had done their duty, they must know every point of their client's case, every strong point and every weak point; that a sort of impression was made upon his mind by what he heard from counsel, but that counsel, who knew the weak points in their case from reading, and which he could only learn from hearing, frequently gave him credit for being aware of objections which really had not occurred to him, which they, however, stated as having probably occurred to him, and which they proceeded to discuss and to answer. That it frequently, however, happened that the objections, stated by them and which they thought had, but which had not, occurred to him, when he came to consider them, were found to be unanswerable, and such as obliged him to change his first opinions; and, as a proof of this, he proceeded to mortify me by saying, that I had often given him credit for thinking of objections which had escaped him altogether, and in attempts to answer them had satisfied him that I was wrong, or rather that my client was, and that he had been likely to be wrong also. If this was a wise rule for a Judge to adopt, how few have adopted it! I remember Lord Thurlow stating to Mr. Justice Gould, who had been with two Masters, hearing a cause for him in Lincoln's Inn, that he had been a long while about it. The old Judge replied, 'God grant that when you are as old as I am, 'your sleep may be as little interrupted as mine is, 'by any reflection that in judgment you have been 'too hasty.'"

In the different modes of transacting judicial business, as in most other affairs of life, there is a balance of advantages and disadvantages. One judge gives a quicker judgment, but less to be relied on: another's decision is slower, but more secure from after question. If the facility of the quicker Judge dispose early of original causes, the reputation of the slower may be a material check upon appeals. Thus have the parties to some long-delayed judgment of Lord Eldon arrived at a final rest from litigation, while other suitors, in causes of the same date, more summarily, but less satisfactorily, and therefore less conclusively, adjudicated, have remained still impounded before an appellate tribunal. Nor were the parties to the suit in hand the only gainers by his caution. Sir George Sinclair, in the debate upon the Scotch Courts, 3rd July 1839, adverts to a conversation between himself and Lord Eldon, in which Lord Eldon, vindicating his own practice of deliberation, observed that a matured and well-digested judgment, such as by taking ample time he was enabled to prepare, "had " not only set that particular question at rest, but " had had the effect of preventing *other parties* from " wasting time and incurring expense, by bringing " forward claims of a similar description." * It is to be recollected, therefore, that if he was too prone to doubt the soundness of his own conclusions (a defect rarely noted in ordinary men), it was because he looked upon the decision of a matter before him to be not for that particular case alone, but for all other cases resembling it in all subsequent time; and thus, if justice was too long protracted in the first-occurring instance of a class, it was, by that very protraction, advanced in every instance occurring afterwards.

The considerations that suspend the decisions of Judges, and make them pause with anxiety in the execution of their deeply-responsible office, are justly referred by Blackstone to the circumstances of a free and highly-civilised country, and of a wealthy and vastly populous territory,

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* And see a speech of Lord Eldon's in the House of Lords, Parliamentary Debates, 30th June 1823.

"Which," adds he, "whenever we are willing to exchange "for tyranny, poverty, barbarism, idleness, and a barren "desert, we may then enjoy the same dispatch of causes that "is so highly extolled in some foreign countries. But com-"mon sense and a little experience will convince us, that "more time and circumspection are requisite in causes where "the suitors have valuable and permanent rights to lose, than "where their property is trivial and precarious, and what "the law gives them to-day may be seized by the Prince "to-morrow. In Turkey, says Montesquieu, where little "regard is shown to the lives or fortunes of the subject, all "causes are quickly decided; the basha, on a summary hear-"ing, orders which party he pleases to be bastinadoed, and "then sends them about their business; but in free states, "the trouble, expense, and delays of judicial proceedings are "the price that every subject pays for his liberty." — 3 *Bla. Com.* 423.

I. 3.

The question, however, which is of most importance to Lord Eldon's judicial reputation, is not whether he may have deserved the charge of too long postponing some particular judgments on difficult questions, but whether there be any colour for the other accusation, that the *general arrear*, admitted to have existed in the Court of Chancery and in the House of Lords during a great part of his time, was owing to his fault.

In the first place, this arrear, though certainly a heavy one, was not really what *primâ facie* it appeared to be. In the pamphlet already quoted ("Observations on the Judges of the Court of Chancery" *), the author, who is a Barrister in large practice, has the following passage respecting the arrears in 1823, which probably affords a pretty fair sample of their character in any other given year or years of Lord Eldon's time: —

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* Published by Mr. Murray.

> On looking over the present cause list, out of the first causes which stand over generally, I observe as many as fifty-eight which stood over in the paper of February 1822, and they have, perhaps, been long since determined, by being set down again for hearing, in the same or another name; and I do not doubt but that in the list of causes, which make up the number against the Court, (for those who erroneously calculate its delay from the cause paper,) upwards of sixty causes appear, which have been reset down, and not struck out of the paper, or are now at an end, from deaths of parties, or abandonment of the suit. Causes at the hearing are often allowed to stand over generally, at the request of the suitors, to add parties, or on account of deaths or change of interest after the cause was first set down; and the suitors neither proceed nor apply to the Registrars to strike the causes out, and there they remain, from year to year, a useless incumbrance to the paper. I know, myself, that forty of those causes, which have been printed and carried forward as arrears from time to time, in the cause paper, have been there for many years, and not one of them for a less period than three or four years; and I have not any doubt but there are some of them that have stood over for ten or twenty years; and yet their prosecution by the parties has been abandoned for many years.— I was well assured, from experience, that the causes in the Court of Chancery nominally in arrear *were most of them causes prematurely set down and not ready to be heard*, and therefore I was at the cost of ascertaining the state of fifty of the present causes, which are set down for hearing, beginning at Parker *v.* James, and ending at Brandon *v.* Bowden; and I find, that only in nine of them depositions have been published: and when I tell the reader that, till publication has passed, and witnesses have been examined, and depositions published and given to the solicitors, the briefs cannot be prepared, and a Chancery cause is not ripe for hearing,— he will agree with me, that when men reason on the delays of the Court from the state

of the cause paper, they reason on erroneous premises, and talk about what they do not understand.—The foregoing facts, and the Appendix, No. 2, demonstrate that, among the two hundred and thirty-six causes treated as in arrear in February 1822, there really were not so many as fifty actually and *bonâ fide* in arrear. — Pp. 38 to 41.; and see the Appendix to the Pamphlet, Nos. 2 and 3.

When the Vice-Chancellor's Court had been a few years established, it was artfully said, "Lord Eldon scarcely ever hears a cause." *Literally*, as to *causes*, this was true: and hence a belief arose among persons who, being unacquainted with the vocabulary of the Register's Office, supposed the duty of the Court of Chancery to consist almost wholly in the "*hearing of causes*," that Lord Eldon did hardly any business in his court. They were not aware that, in addition to the hearing of causes strictly so called, and of matters in bankruptcy and lunacy, which are not called "causes" but "petitions," he was sedulously employed in the hearing of *appeals*, which are in fact causes of the heaviest description, though not entered in the paper under the name of "causes:" and still less were they aware of the extensively prevalent practice already mentioned, of bringing *motions* before Lord Eldon, which involved the material points in the most important of the causes pending before the Vice-Chancellor, for the purpose of getting Lord Eldon's opinion in an interlocutory way, and so saving the expense and delay of ulterior proceeding. Mr. Crofts, the Registrar, who was examined in 1812, March 9th, before Mr. M. A. Taylor's Committee of that year, gave the following evidence:—

"State from your own knowledge and experience what is "the reason that that interval, which used to be passed in "hearing the causes, is exhausted by the continuance of the "Seal? — It arises from *motions* being of that high consequence that the point in the cause is frequently determined, "and takes up a great time."

This practice, from the prevalent opinion of its utility and convenience, continued to subsist and increase. In 1812 Mr. Whitton, a veteran Solicitor, whose evidence on this point has been before referred to, was asked, in the course of his examination before the Chancery Commission *,

"*Q.* — Has that practice, of the Lord Chancellor deciding "causes upon motion in the way you have mentioned, increased considerably since you first knew the practice of the "Court? — Yes, in this way: I have frequently been in "causes, and been in court, when interlocutory applications "have been made; and, to further justice between the parties, my Lord Chancellor has said frequently that he would "decide the question, so as to set the parties at rest upon it.

"*Q.* — Do you consider such a course of proceeding the "most beneficial to the interests of the suitors generally? — "I think the application of the time of the Lord Chancellor "is highly beneficial to the suitors in that way.

"*Q.* — Is not the quantity of such business, and the time "it occupies, such as in a great measure to prevent the Lord "Chancellor attending to other matters in his Court? — Such "matters take up a very considerable proportion of my Lord "Chancellor's time, and of course he cannot hear other matters "whilst he is hearing them.

Mr. Hamilton, also an experienced Solicitor, gives the following evidence: —

"I know that it has frequently happened, that when parties have wished to have the Chancellor's opinion as soon as "they could, they have endeavoured to frame a bill for the "appointment of a receiver, or for an injunction, in order

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* Chancery Commissioners' Report, pp. 75, 76.

" that they might, on the motion for such receiver or injunc-
" tion, discuss the question in dispute between them.

" *Q.*— Has it not been the general habit of the Profession,
" when the Chancellor's opinion was given upon a motion, to
" consider *that* as decisive of the cause, and not to go further
" upon it? — It has: it has been considered perfectly useless
" to go further.

" *Q.*— Has that habit proceeded from the confidence felt in
" the Chancellor's judgment, adverting to the elaborate consi-
" deration he bestows on motions before they are decided? —
" Undoubtedly. Another reason may be, that the Judge, if
" the cause came to a hearing in the Court below, would pay
" that deference to his judgment, that they would decide in
" the same way: or, if it came before *him*, it would be a judg-
" ment of the same Chancellor on the same question; — it is
" known that he would not give an opinion without reading
" all the pleadings and maturely considering the question, and
" therefore it would be practically useless to go further."*

Very often, says Mr. Hamilton †,

> " A great deal of the Chancellor's time is taken up with applications on the part of bankrupts in custody, who are brought up on writs of habeas corpus to be discharged. These applications frequently occupy a considerable time, and come on to the interruption of every other business."

The mode in which Lord Eldon's political adversaries chiefly delighted to impeach his efficiency was the invidious one of comparison. They alleged that his distinguished predecessor, Lord Hardwicke, had had as much to do, and had done it effectively. This succinct and popular form of disparagement appears to have been first devised about the year 1812. Lord Grey, in the House of Lords, on the 24th of June in that year, intimated that the number of bills in Chancery was then less than in the time of Lord Hardwicke; and Sir Samuel Romilly, in the House of Commons, on the 11th of February 1813, resisted the Vice-Chancellor's Appointment Bill on the ground that the business, "*strictly so called*, of the Court of "Chancery, had not increased since the year 1750," when Lord Hardwicke was Chancellor: acknowledging at the same time that "there was certainly a very great "increase in the bankrupt business."

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* Chancery Commissioners' Report, pp. 95, 96.

† Ib. p. 95.

Mr. Raynsford, one of the Registrars examined before the Chancery Commission, gives a very different account. The following questions and answers occur in the evidence of this practical witness:—

> "Except when attending the House of Lords, or called to attend the Council, or elsewhere on public business, does the Chancellor sit constantly in Lincoln's Inn Hall?—Yes.
>
> "With those exceptions, has not the Chancellor sate two hours later than Chancellors usually sate?—*The business has very much increased.*
>
> "Do you remember Lord Rosslyn's time?—Yes. In Lord Rosslyn's time the business did not require so much."

Even without this direct testimony, a reflecting inquirer would have been disposed to question Sir S. Romilly's statement, upon the ground of general probability. The total amount of personal property belonging to the suitors of the Court of Chancery which was lodged with the Accountant-General of that Court, in 1750, the period mentioned by Sir S. Romilly, was 1,665,160*l.* By the end of the same century, that amount reached 17,000,000*l.*: and between 1800 and 1820 it increased to 34,000,000*l.* It is true that the ratio between the aggregate amount of the property in suit and the number of the suits themselves is not a certain one; although it is impossible to suppose that the property could have increased in the ratio of more than ten to one, without a vast addition to the quantity of business connected with it. But there is a nearer test, — the proportion between the *number of accounts* to which the property was standing in the books of the Accountant-General at the two respective periods. In 1750, under Lord Hardwicke, the number of these accounts was 1006: in 1820, under Lord Eldon, it was 7521.

> "For about thirty years last past," says the Report of the Lords' Committee (ordered to be printed 17th June 1833), "by virtue partly of standing orders in this House, and "partly by the practice and usage of the House, the Court "of Chancery has been made an instrument in the execution "of local Acts of Parliament, relating to canals, navigations, "aqueducts, avenues to bridges, inclosures, docks, railways, "tram-roads, opening and paving streets, supplying towns "with water and gas, and various other speculations, by "which acts the purchase-money of lands, taken under the "authority of Parliament for such purposes (where the titles "are doubtful, or cannot be immediately completed) is directed to be paid into the Court of Chancery, there to "remain until, by proceedings in that Court, the titles can "be tried, or means found by that Court to clear doubtful "titles; and it is obvious that, in every case, in which Parliament has thus burthened the Court of Chancery, this "new species of business operates against the dispatch of the "ordinary business of the Court." *

But these are only opinions, and grounds for general inference. Let us now refer to precise official returns of the judicial business actually done by the two Lord

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* Lords' Report, 17th June 1823, p. 10.

"Chancellors between whom the parallel of Sir S. Romilly is drawn.

The printed documents from which the succeeding tables and calculations have been prepared are these: —

No. I. — Appendix B. C. and F. to Report from House of Commons' Committee appointed to inspect Lords' Journals. Ordered to be printed, 27th May 1811.

No. II. — Returns to orders of the House of Commons, dated 23rd May 1821, and 11th February 1822, from the Registrars of the Court of Chancery, the Chancellor's principal Secretary, the Secretary of Bankrupts, and the Secretary of Lunatics. Ordered to be printed, 12th February 1822.

No. III. — Returns respecting the Courts of Chancery, Exchequer, and Bankruptcy. Ordered to be printed for the House of Commons, 25th March 1836.

No. IV. — Account of Appeals entered and determined since 1750, as stated in Appendix to Report from House of Commons' Committee on Delays of Suits in Chancery. Ordered to be printed, 18th June 1811.

No. V. — Accounts relating to Appeals and Writs of Error, brought from the Lords, 4th June 1823, and ordered by the Commons to be printed, 12th June 1823.

The document No. III. contains a return of the number of bills filed from 1750 to 1754, from 1760 to 1764, from 1770 to 1774, from 1780 to 1784, from 1790 to 1794, and from 1800 to 1835. In order to give the utmost benefit to Sir S. Romilly's statement in favour of Lord Hardwicke, let us take the three years of Lord Hardwicke's time in which the return shows the greatest number of bills filed. These years are 1752-3-4, in which the aggregate number of bills filed is 4891. In none of the recorded periods, between 1754 and Lord Eldon's accession, did the amount of bills filed in any three years amount to 4500. But in the three years next preceding that in which Sir S. Romilly's speech was made, the total number of bills filed in Lord Eldon's Court had risen to 6654, an increase of about 36 per cent. upon the three fullest years of Lord Hardwicke. And this is a result given in mere *numbers*, without reference to the augmented *weight* of the modern business as compared with that of older days — a consideration which will presently receive due notice.

But it would matter little to show that in Lord Eldon's time, as compared with the time of his predecessors, there was more business to be done, if the business which he himself actually did was less than had been done by them. Let us come, therefore, to closer quarters in working out the parallel between Lord Eldon and Lord Hardwicke. In No. I. Appendix B. there will be found among other returns from the officers of the Great Seal, an account furnished by the Deputy-Registrar, setting forth the business of the Court of Chancery,—in the ten years from Michaelmas 1745 to Michaelmas 1755, during all which time the Chancellor was Lord Hardwicke,—and in the ten years from Michaelmas 1800 to Michaelmas 1810, during almost nine of which the Chancellor was Lord Eldon. This return is confined to "the business of the Court of Chancery, *strictly so called;*" and it gives this summary of causes, exceptions, and further directions, pleas and demurrers, cause-petitions, re-hearings and appeals, and motions, disposed of in the Lord Chancellor's Court.

	1745 to 1755.		1800 to 1810.		
	A. D.		A. D.		
Lord Hardwicke.	1745,6	4294	1800,1	5148	Lord Loughborough.
	1746,7	4269	1801,2	5148	Lord Eldon.
	1747,8	4249	1802,3	5134	
	1748,9	4500	1803,4	5627	
	1749,50	4564	1804,5	6478	
	1750,1	3314	1805,6	6045	
	1751,2	4323	1806,7	6393	Lord Erskine.
	1752,3	4515	1807,8	7275	
	1753,4	4433	1808,9	6663	Lord Eldon.
	1754,5	3742	1809,10	6906	
		42,203		60,817	

Let it not be forgotten, that the comparison thus instituted is not between Lord Eldon and the average of preceding Chancellors, but between Lord Eldon and the one most eminent man of all who had ever preceded him. And now, what is the result? It is, that through the *only* ten years of Lord Hardwicke's Chancellorship whereof we have any exact record, the annual average of the matters dispatched in the Court of Chancery was 4220; while, through the first ten years of the present century, the annual average of the matters dispatched was 6081, being an excess of almost one half. And this increase of business and of dispatch in Lord Eldon's time was a progressive one. The last three of the ten before-mentioned years of Lord Hardwicke give an average of 4230, or 14 beyond the average of the seven years by which they are preceded; but the last three of the before-mentioned years of Lord Eldon give an average of 6948, being 1238 beyond the average of the seven years preceding them, and 2718 beyond the average of the last three of the ten recorded years of Lord Hardwicke.*

Here, then, is a tolerably conclusive proof of Lord Eldon's comparative dispatch in "the business, *strictly* "*so called*, of the Court of *CHANCERY*" *before the constitution of the Vice-Chancellor's Court.* There are no returns from which an accurate comparison could be drawn between Lord Hardwicke's and Lord Eldon's dispatch of appellate business in the House of Lords during the respective *decennial periods* before mentioned; but with respect to the business there dispatched, in *three* of the years of each of those great Chancellors, a parallel is furnished a few pages hence, after the tables.

In the Appendix, p. 46., to a Report of a Committee of the House of Commons, ordered to be printed 13th June 1812, is the following piece of evidence, given by Mr. Henry Cowper, then one of the officers of the House of Lords:

> "To show how great a portion of time has of late been "occupied on some of the claims of Peerage, I have made out "an account of the number of days, on which the Committee "of Privileges sat on the Berkeley claim of Peerage. On "that claim alone they sat no less than thirty-four days in

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* The account of business done at the Rolls, in the same two compared periods, presents a still larger increase; the number of matters disposed of in that branch of the Court having been, in the before-mentioned ten years of Lord Hardwicke, 7615, and in the first ten years of the present century 13,308. The business done at the Rolls is of a very much lighter kind than what is heard by the Chancellor, but still serves, in some degree, to illustrate the general proportions between the two periods.

"the last Session of Parliament, on several of which they met "as early as ten o'clock in the morning, and continued sitting "till four or five in the afternoon. The Roxburghe claim of "Peerage, in the year 1808, took up seven days; in the year "1809, four days; in the year 1810, fifteen days; in the "whole, twenty-six days. On the Roxburghe causes con- "nected with this claim of Peerage, there were, in the year "1808, no less than thirty-one days taken up, and, upon a "great many of them, the House met at ten o'clock in the "morning, and continued sitting till near four o'clock in the "afternoon. One of the counsel alone in these causes "occupied, I understand, no less than eighteen days. The "Roxburghe causes, in the present Session, 1812, have "already occupied eleven days."

The advantage on Lord Eldon's side could be farther exhibited in respect of the business of Bankruptcy and Lunacy, by returns of the numbers of cases dispatched by him and by Lord Hardwicke about the periods above mentioned; but it is hardly needful to enter into the details of such an inquiry here, because all that is material to the main question will be made sufficiently evident presently, by certain tables, constructed from the documents already enumerated, and relating to a subsequent period of Lord Eldon's Chancellorship. As the returns before abstracted show his advantage over Lord Hardwicke in the dispatch of Equity business during the earlier years of his service, so these subsequent tables establish that, in a later time, even at the period when his adversaries were preparing their materials for attack, and while he was withdrawn from the Court of Chancery to the House of Lords, two and often three days in each week during the whole of each Session of Parliament*, his rate of judicial dispatch surpassed the performance of Lord Hardwicke on the entire aggregate of the Equity, Bankruptcy, and Lunacy business.

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* On an average, about forty-eight days in each year: see below, after the tables.

The two periods assumed for this comparison are, that of the three years ending Michaelmas 1755, being the concluding three years of those ten in Lord Hardwicke's time which have already been compared with ten of the present century*; and that of the three years ending December 31st, 1821, being the eighteenth, nineteenth, and twentieth years from Lord Eldon's first accession to the Great Seal. The reason why the period first mentioned has been selected as the specimen of Lord Hardwicke's time, is, that the years 1752, 1753, 1754, are the three already noticed as giving the largest average of bills filed, and are also the final three of the only five entire years of his Chancellorship, for which there is any complete record, including the business done by him in Bankruptcy. And the reason why the years 1819, 1820, and 1821, have been selected as the specimen of Lord Eldon's time, is, that with these years ends the important return No. II., which contains the only account of the motions and cause-petitions heard by him. Of the petitions in Lunacy there is no account for the precise years 1752-3, 1753-4, and 1754-5; but there is an account, No. I. letter F, for the ten years ending 1746, which gives an average number of 48⅖: and this number has been assumed for each of the three years 1752-3, 1753-4, and 1754-5.*

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* The three years of Lord Hardwicke's time are given in the returns as from Michaelmas to Michaelmas: Lord Eldon's years are given in the returns, as from January to December; but three full twelvemonths are included equally in both cases, and there is no reason to suppose that the returns were made up with any difference of principle, or with any bias which should affect the accuracy of a parallel between them.

The succeeding tables do not include the business done in either of the two periods at the Rolls, but only the business done in the Lord Chancellor's Court. In the first of these tables, the item of motions dispatched by Lord Hardwicke will require some explanation. The parallel before drawn, between the business dispatched from 1745 to 1755, and the business dispatched from 1800 to 1810, was so far simple, that as the return from which it was prepared appears framed on the uniform principle of including in *both* those periods *all* decrees and orders, (not only where contested, but also where made of course or by consent, except merely such as were taken on the signature of counsel without *vivâ voce* application to the Court) it was assumed in that parallel that, of the business so returned, the contested portion bore much the same ratio to the uncontested in the one period as in the other. But for the purpose of preparing the tables that next follow, there were several different returns to be consulted, which had not been framed on a uniform principle, and which therefore required some allowances and calculations in order to bring their results to a common measure. It is with respect to the *motions* (in these two latter periods) that this becomes requisite. The account of each year's motions in Lord Hardwicke's time gives those which were contested, and those which were of course or of consent, in one item without distinction. But the account of the motions in Lord Eldon's time, which is set forth in No. II., is confined to those which were contested, omitting the motions of course and of consent, which, occupying no part of the Court's time, formed no part of the business for which the Judge ought to have credit. Now the best attainable approximation to the contested proportion of these *motions* will probably be gained from a comparison of the number of the *causes* heard in the two periods of Lord Hardwicke and Lord Eldon, in which number the causes taken by the Master of the Rolls during the time of Lord Hardwicke must be included; because, during his time and long afterwards, the contested motions arising out of causes heard by the Master of the Rolls were not in general taken at the Rolls, as they are now, but in the Lord Chancellor's Court. The total number of causes in the years 1752, 1753, 1754, heard by Lord Hardwicke and the Master of the Rolls for the time being, according to the return No. I. B. and C., was 901; and according to the return III. 1. the number heard by Lord Eldon and by the Vice-Chancellor and Master of the Rolls in 1819, 1820, 1821, was 2305. The three years which thus produced 2305 causes, produced also 7397 contested motions. Of these it may be computed that at least one-eighth, or about 920, were motions of appeal from the Vice-Chancellor, while perhaps 180 or

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* The account No. III., the most comprehensive of the documents above referred to, will occasionally be found in some small particulars, touching the years 1820, 1821, 1822, to vary from the account No. II. Where this has appeared to be the case, No. III. has been preferred, as bearing marks of greater care in the preparation. There are also some variances between No. III. and No. I. touching the years 1752 to 1755; but where this has happened, No. I. has been preferred, because many office books, which were in existence in 1811, when No. I. was prepared, were afterwards mislaid, and could not be found in 1825, when No. III. was made up. In neither case, however, are these variances considerable enough to have any material effect upon the argument.

200 more were motions occasioned by the new practice already explained, of framing motions for the purpose of getting the Chancellor's opinion in an interlocutory way; neither of which classes of business existed in Lord Hardwicke's time, when no Vice-Chancellor was in being, when the Master of the Rolls heard no motions, and when the practice just mentioned had not been devised. These deductions being made, it may be probably assumed that the number of contested motions produced by the 2305, say 2300, causes in Lord Eldon's three years, instead of being 7397, would hardly have reached to 6300; and, applying this proportion of 6300 contested motions for 2300 causes to the 901 causes, say 900, heard in Lord Hardwicke's three years, we get a probable result, for Lord Hardwicke's three years, of 2465 *contested* motions, out of the 11,543 given as the general total of those three years in the return No. I. B. The remainder, being 9078, will be motions of course or of consent, which occupying, as already observed, no part at all of the Judge's time, must be deducted from the amount of business set down to the credit of Lord Hardwicke, just as they have been excluded from the return of actual business done by Lord Eldon and the Vice-Chancellor. The number of motions, for which Lord Hardwicke is entitled to be credited in the estimate for his three years, will then stand at the above calculated number of 2465.

But now arises another and most material consideration in reference to the succeeding tables, namely the alteration, in the nature and weight of the Lord Chancellor's business, occasioned by the introduction of a Vice-Chancellor. In the business done by

Lord Hardwicke, were included all matters of all kinds, light as well as heavy, except what were disposed of at the Rolls. But with Lord Eldon, from the time of the Vice-Chancellor's appointment, the course of affairs became wholly different; for, as the Vice-Chancellor's Court, which was empowered to hear Bankruptcy as well as Equity, had practically the effect, in both these departments, of clearing away the lighter cases, and leaving the heavy ones upon the Lord Chancellor, Lord Eldon had scarce any intermixture whatever of light cases, except, indeed, in Lunacy, in which he heard all petitions indiscriminately, the Vice-Chancellor having there no jurisdiction.

A paper found in Lord Eldon's hand-writing, contains, among other observations upon the nature of Court business, this passage, respecting the unfairness of computation by tale alone without regard to weight: —

" Nothing so likely to mislead with respect to deciding whether A., B., or C., has done most judicial business in five or six years, than stating the *number* of decrees they have respectively made.

" Suppose A., in the given period, has made 18
B. - - - - - - - 24
C. - - - - - - - 30;
it is a gross fallacy to infer from this that C. has done more business than B. or A. What is the quantity of business, by each, must depend, not upon the *number*, but upon the *nature*, of the suits in which the judgments or decrees have been made.

" Five, six, ten, more decrees or judgments may be made in two days by C. than B. has made in six, seven,

..or eight or more days: because the nature of the causes may not have required, or the difficulties in the causes in which C. has made decrees may not have required, the devotion of the time absolutely necessary to be given only to one, two, three, or four causes, in which B. has made decrees, and which may be of ten times more importance, as to each, than the bulk of the causes decided by C.

" Two or three causes decided by A., out of his 18, may require both more time and more knowledge, to enable a proper decision to be made in them, than 12 or 15 or more of the causes decided by C. required.

* * * * * *

" In one cause, from its nature, counsel may plead for four or more days, before the Judge can apply himself to deciding in other causes; another Judge may have opportunity of deciding several in one morning, after counsel have stated what they had to urge in such causes."

Lord Eldon's business then, with the one exception of the Lunacy petitions, being exclusively of the heaviest class, it was not to be expected that a list of the matters dispatched by him should be so *numerous*, as the list of the matters dispatched by Chancellors, or other Equity Judges, who had a large infusion of the lighter cases. Thus, in order to arrive at the just conclusion from these tables, it becomes necessary to make some attempt at ascertaining what the proportions, in number and in weight, between the lighter and the heavier cases, may probably have been in the periods compared.

Of the 1680 Bankrupt petitions, heard in the three years of Lord Eldon which are now under consideration, the heavier ones, which were heard by himself, amounted to 396, and the lighter ones, which were heard by the Vice-Chancellor, 1284. The Lunatic petitions, 799, were all heard by the Chancellor himself; but at the same rate of classification, there would be 611 of the lighter description, and only 188 of the heavier.—If it be conceded, on Lord Eldon's side of the parallel, that the heavy cases bore an equally large proportion to the light ones in Lord Hardwicke's time, which, however, may reasonably be doubted, then out of the 428 petitions in Bankruptcy which Lord Hardwicke, having no Vice-Chancellor, heard all himself, there would be about 100 heavy and 328 light, and out of his 146 petitions in Lunacy, about 35 heavy and 111 light.—Of the 7397 contested motions not of course or of consent in the three years of Lord Eldon now under consideration, the heavier ones, heard by himself, were 1560, and the lighter ones, by the Vice-Chancellor, 5837; and if the same proportion of heavy and light ones be again conceded for Lord Hardwicke's time, then out of the 2465 contested motions computed to have been heard by Lord Hardwicke, there would be about 520 heavy ones and 1945 light.

The cause-petitions disposed of in Lord Hardwicke's time are less easily distinguished into light and heavy ones, because they were not heard,—as in those days the petitions in Lunacy and Bankruptcy and the contested motions were,—wholly in the Chancellor's Court; but partly in the Chancellor's Court and partly at the Rolls. The aggregate number heard in both Courts during the three selected years of Lord Hardwicke's time is 1017, of which 419 were heard in the

Lord Chancellor's Court. The aggregate number heard in Lord Eldon's and the Vice-Chancellor's Courts in 1819, 1820, 1821 (exclusively of what may have been heard at the Rolls, of which no return appears) was 1138; and of all these only 140 were of sufficient importance to be selected for Lord Eldon's decision. Suppose the Rolls Court to have disposed of but three of four hundred more, making about 1500 in all, still the light ones heard there and in the Vice-Chancellor's Court would be almost ten times as many as the heavy ones heard before Lord Eldon himself; and if thus the heavy petitions heard by Lord Eldon himself were but 140 in a probable aggregate of at least 1500, then the heavy portion of the 1017 petitions disposed of in Lord Hardwicke's time, of which 419 were in his own Court, will probably not have exceeded 100.

It is requisite in the next place to find some common measure for these two classes of cases, the heavier and the lighter, so as to get some notion what number of the lighter cases will be equivalent to a given amount of the heavier. This, of course, is not to be done with absolute precision; but we are not without a rule which will bring the two sets of items in the succeeding tables into a tolerably fair position for comparison.

In the debate upon the creation of a Vice-Chancellor, 15th February 1813, it was observed by Mr. Leach, who certainly was not disposed, either politically or professionally, to give too much credit to Lord Eldon, (particularly in comparison with Sir William Grant, the then Master of the Rolls,) that each cause heard by the Chancellor might be considered, in respect of its weight and of the time it occupied, as being equivalent to three of the causes heard by the Master of the Rolls. The Registrar, Mr. Colville, has expressed an opinion, that a very much larger number than three should have been assumed; but for the purpose of this argument it will be sufficient to adopt the three, Mr. Leach's own proportion. And if one of the *causes* heard by the Chancellor, before the Vice-Chancellor's appointment, was equal in its weight and occupation of time to three of the *causes* then heard by the Master of the Rolls, a *motion* or *petition* of the heavier class may well be deemed to bear at least the same proportion to a *motion* or *petition* of the lighter class. In the succeeding tables, therefore, each of the heavier cases, set down in the one column, is estimated as equal, on the average, to three of the lighter cases, set down in the other column. This rule will of course be applicable to the table of business disposed of by Vice-Chancellor Leach himself.

Lord Chancellor *Hardwicke*, 1752–3, 1753–4, 1754.

				Cases of the lighter class, whereof three are computed (on the principle of Sir J. Leach's rule, above, p. 379.) as equal to one of the heavier class now heard by the Lord Chancellor. LIGHT.	Cases of the heavier class now heard by the Lord Chancellor. HEAVY.
Appeals and Rehearings	16.	Account No. I. (B.)		—	16
Causes	446.	Ibid.		—	446
Exceptions and further Directions	192.	Ibid.		—	192
*P*leas and Demurrers	80.	Ibid.		—	80
			See pp. 376 to 378.		
Cause Petitions	419.	Ibid.	Computed of the lighter class	319	—
			Computed of the heavier class	—	100
Contested Motions	2465.	Ibid.	lighter	1945	—
			heavier	—	520
Petitions in Bankruptcy	428.	No. III. 6.	lighter	328	—
			heavier	—	100
Petitions in Lunacy	146.	No. I. F.	lighter	111	—
			heavier	—	35
			Total light	2703 equal to	901
			Comparative amount dispatched by Lord Hardwicke		2390

NOTE. — This Table does not include the business done in the House of Lords, as to which see page 386.

Lord Chancellor Eldon, 1819, 1820, 1821.

			Cases of the lighter class, whereof three are computed (on the principle of Sir J. Leach's rule, above, p. 379.) as equal to one of the heavier class now heard by the Lord Chancellor. LIGHT.	Cases of the heavier class now heard by the Lord Chancellor. HEAVY.
Appeals and Rehearings	92.	Account No. III. 1.	—	92
Causes	10.	Ibid.	—	10
Exceptions and further Directions	6.	Ibid.	—	6
Pleas and Demurrers	2.	Ibid.	—	2
Cause Petitions	140.	No. II. 3	—	140
Contested Motions	1560.	Ibid.	—	1560
Petitions in Bankruptcy	396.	No. III. 6.	—	396
Petitions in Lunacy.	799.	No. II. 7. Computed of the lighter class, see p. 377.	611	—
		Computed of the heavier class, see p. 377.	—	188
			Total light 611 equal to	204
			Comparative amount dispatched by Lord Eldon —	2598

NOTE. — This Table does not include the business done in the House of Lords, as to which see page 386.

Vice-Chancellor Sir John Leach, 1819, 1820, 1821.

		Cases of the lighter class, whereof three are computed (on the principle of Sir J. Leach's rule, above, p. 379.) as equal to one of the heavier class now heard by the Lord Chancellor. LIGHT.		Cases of the heavier class now heard by the Lord Chancellor. HEAVY.
Causes	Account No. III. 1.	1536	equal to	512
Exceptions and further Directions	Ibid.	559	——	186
Pleas and Demurrers	Ibid.	192	——	64
Cause Petitions	No. II. 3.	998	——	333
Contested Motions	Ibid.	5837	——	1946
Petitions in Bankruptcy	No. III. 6.	1284	——	428
	Total light	10,406	equal to	3469

Comparative amount dispatched by Sir John Leach—3469

NOTE. — Appeals and Rehearings, and Petitions in Lunacy, are not in the jurisdiction of the Vice-Chancellor.

The foregoing tables give to Sir John Leach, in these three years, an *apparent* advantage of 871 matters beyond Lord Eldon, or 290 in each year. But this advantage is *only* an apparent one, the returns of the Vice-Chancellor's business being made upon *a much larger number of sitting-days* in each year than the returns of the business done by the Lord Chancellor: for the whole of the Vice-Chancellor's official time is available for his own Court; while the Lord Chancellor's judicial business occupies him not only in the Court of Chancery, but also in the House of Lords. In the three years which the tables include, being 1819, 1820, and 1821, Lord Eldon sate in the House of Lords upon Appeals and Writs of Error 116 days, and upon Committees of Privileges 29 days, in all 145 days. But moreover, observes the Report of the Chancery Commission of 1824 (printed 1826),

> "The Lord Chancellor is greatly occupied — as *Speaker* "of the House of Lords, — by the duty which he has to "discharge in the advice he is required to offer to his "Majesty, with respect to condemned criminals, when their "cases are reported by the Recorder of London, — by the "various claims upon his time in matters of state, and mat"ters referred to him by the Secretary of State, — by occa"sional attendance when required, at meetings of the Council, " — by the duty of carefully examining treaties, conventions, "charters, commissions, letters patent, grants, and all the "numerous instruments which pass the Great Seal, for the "legality of the provisions of which, and the accuracy of "their contents, according to the warrants upon which they "are founded, he is responsible, — by calls upon his attention "to much that relates to the administration of justice by "others, — and by such judicial business and other business "of his office, as is transacted by him, but *not in Court.*"

Now, in order to get at a mode of estimating the time which was left to the Lord Chancellor for his own Court, after all these claims had been answered, recourse may be had again to Sir John Leach. That acute lawyer, when he opposed the Vice-Chancellor's Court Bill in the House of Commons, computed the number of "juridical days" in the year at 200, or between 33 and 34 weeks, of six days in each week, which, for the three years in question, would give 600 days.*

It has been already seen, that on 145 days in the three years, Lord Eldon was taken away from the Court of Chancery to judicial business in the House of Lords: and the remaining question is, what further deduction, from the complement of 600 "juridical days" in the three years, must be made for the vast mass of business *out of Court*, which is particularised in the passage just extracted from the Report of the Chancery Commission. If, for all these multifarious and burthensome matters, only three of the morning hours in each week be subtracted from the "juridical time," the total number of morning hours withdrawn from the Court in the 33 or 34 juridical weeks of each year will have been somewhat more than 100 hours, or 20 sitting days of five hours each: in three years about 61 days. Thus, then, from the 600 juridical days of Lord Eldon's three years, there must be deducted 61 on this account, besides the 145 for the House of Lords; leaving to the Lord Chancellor only 394 complete sitting days in the three years, while the Vice-Chancellor has the whole 600. But if Lord Eldon, in his 394 days, disposed of 2598 matters, it becomes clear that his rate of proceeding was one which, if a Chancellor could sit, like his Vice-Chancellor, for 600 days in the three years, would give a result, not merely of 3469 heavy matters, which was the equivalent of Sir John Leach's total, but of 3956; being 487 heavy matters beyond the performance of the ostentatiously rapid Vice-Chancellor.

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* Sir John Leach there computed six hours to each day. Experience, however, has shown that five hours are as much as, if not more than, can be usefully devoted to the Court business, where the sitting is a daily one, regard being had to the time of preparation that must be employed in the evening, both by the Judge and by the Counsel. Accordingly, Sir John Leach himself, when he became Vice-Chancellor, was accustomed to sit five hours and no more: and this, with occasional exceptions, has been the allotment of time in Court by the other Vice-Chancellors and by the Master of the Rolls. Five hours then may be fitly assumed as the length of the "juridical day." The remainder of the year (after the deduction of the 33 or 34 juridical weeks and a further allowance for reasonable vacations), an Equity judge will properly employ in keeping up his legal reading, and in preparing his judgments on those voluminous or difficult cases, which stand over for a fuller consideration than can be spared to them while the Courts are in daily sitting.

Ascending now to the time of Lord Hardwicke, we find the result of the tables, as between him and Lord Eldon, to be, that, in a space of three years, Lord Hardwicke dispatched business equal to 2390 heavy matters; and that Lord Eldon, in a like space, dispatched business equal to 2598 like matters, being an excess of 208 in Lord Eldon's favour. This excess is the more to Lord Eldon's credit, because, as will now be shown, he was not left at liberty from his judicial duties in the House of Lords, to bestow in his three years, upon the business of Equity, Bankruptcy, and Lunacy, the same, or nearly the same, amount of time which, in the like number of years, Lord Hardwicke was enabled so to devote.

In the three Sessions, 1753, 1753, 4, and 1754, 5, Lord Hardwicke sat in the House of Lords upon appeals and writs of error 92 days, that is, not quite 23 days in each Session: — whereas Lord Eldon, in the three Sessions of 1819, 1820, and 1821, sat in the House of Lords upon appeals and writs of error 116 days*, and upon Committees for Privilege 29 days†; in all, 145 days, or 48 days and a fraction in each year. Thus it results, that Lord Eldon not only dispatched, in the Court of Chancery, during his three years, an amount of 2598 heavy matters, being 208 more than were dispatched in the same length of time by Lord Hardwicke, but moreover that Lord Eldon effected this in only 455 days,—or, if 61 days be deducted as before for political and other duties, only 394 days: — while his predecessor, in clearing the smaller amount of 2390 like matters in the Court of Chancery, consumed 508 days, — or, (61 days being equally deducted, as in Lord Eldon's time,) 447 days: — and Lord Eldon's real superiority therefore, when calculated, as it ought to be, with reference to the number of days actually available for the Court of Chancery in the course of each respective period of three years, is not merely to the amount of 208 heavy matters beyond Lord Hardwicke, but at the rate of

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* For the days, 22 in number, on which he sat in the House of Lords merely to give judgments, and do other appeal business on which counsel were not then heard, no credit is taken.

† There appear to have been no sittings at all in Committees for Privilege during Lord Hardwicke's three above-mentioned Sessions.

348 such matters; which would be a superiority in Lord Eldon's favour of about fourteen per cent.

Perhaps it may be imagined that in the appeals and writs of error before the House of Lords, Lord Hardwicke made better proportionate use of his 92 days than Lord Eldon of his 116. The records of the House of Lords* show the very contrary. They show Lord Eldon in his 116 days to have dispatched 88 appeals and 19 writs of error: Lord Hardwicke, in his 92 days, 32 appeals and 4 writs of error. Lord Eldon therefore has a clear advantage, in the proportion of almost three to one, for the House of Lords, which is to be added to that already apparent in his favour upon the tabular comparison for the Court of Chancery.

The advantage, large as it is, which, upon the business actually dispatched in proportion to the time which could be made available for dispatching it, Lord Eldon is thus found to possess over the greatest of preceding Chancellors, is in reality much more considerable than even the tabular exposition shows it. This will be evident from the following circumstances.

In the first place, between the time of Lord Hardwicke and that of Lord Eldon, the attendance of the Chancellor on the *legislative* business of the House of Lords had increased by much more than one-half

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* Printed returns, Nos. IV. and V., and MS. returns furnished for this work from the Parliament Office in the House of Lords. The printed return, No. IV., p. 27, gives only 25 appeals instead of 32, as having been "determined" in the three Sessions from 1753 to 1755. On what principle the other seven were excluded from that return is not apparent: but credit is here given for them to Lord Hardwicke.

(upwards of 60 per cent.). In the three years of Lord Hardwicke, from Michaelmas 1752 to Michaelmas 1755, the House sat in its legislative capacity, 238 days, including 7 prorogations: in the three years of Lord Eldon, 1819, 1820, 1821, the House so sat 385 days, including 5 prorogations: Lord Eldon therefore, in three years, sat as Speaker 147 days more than Lord Hardwicke, or 49 days in each year. The reader will remember that these last are evening attendances, quite distinct from and additional to the judicial functions of the Chancellor in the House of Lords, which have been already noticed as having occupied on an average 48 of his mornings in each of the three years, 1819, 1820, and 1821. Moreover, these evening attendances of the Chancellor as Speaker had in Lord Eldon's time (from the increased prolixity of the debates and other proceedings), become very much longer than when Lord Hardwicke presided: so that the excess of Lord Eldon's attendances as Speaker, beyond those of Lord Hardwicke, would be very inadequately measured by giving him credit only for 49 evenings *of equal duration*. If the number of hours occupied in Lord Hardwicke's three years by his 238 evenings, estimated at an average of an hour and a half each, was in all 357, or 119 hours in each session, Lord Eldon's 385 evenings, which cannot be estimated at a lower average than two hours each, will have occupied 770 hours, being an excess beyond Lord Hardwicke of 413 hours in the three years, or 138 hours in each session. In the evenings of each session, therefore, Lord Eldon was withdrawn from the consideration and preparation of his judgments for 138 hours more than Lord Hardwicke.*

In the next place it must be noted that Lord Eldon, with less time than Lord Hardwicke for the business of the Court, lacked some of the most efficient means which Lord Hardwicke had enjoyed for getting it dispatched. In some MS. observations upon the plan for the constitution of a Vice-Chancellor, Lord Eldon dwells with earnestness on his own disadvantage in being unable, from the growing pressure of business in the Courts of Law as well as of Equity, to obtain that aid in his own Court which had been extensively afforded to former Chancellors by the Common Law Judges, by the Masters in Chancery †, and by the Master of the Rolls, when they were not so much occupied in their own proper departments. He speaks of the large assistance received by Lord Bathurst and Lord Thurlow in this way, particularly from Sir T. Sewell and Sir Lloyd Kenyon, Masters of the Rolls: and then he adds generally, "It is unnecessary further to

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* For the returns of the comparative labours of Lord Hardwicke and Lord Eldon, both in the judicial and in the legislative business of the House of Lords, the writer is indebted to the kindness of the gentlemen of the Parliament Office.

† It does not seem clear that the Masters in Chancery might not have been made available. If the business of the Exchequer Court was so heavy (which, however, in those days it certainly was not), as to render it inconvenient that one of the Barons should be spared to make up the old Commission of Assistance for Equity matters (see Lord Eldon's speeches in the House of Lords, May 21st, 1829, and May 26th, 1830), authority might well have been given to three Masters, (who are, as it were, the Puisne Judges of the Court of Chancery, and ought to perform much of the judicial business now done at great expense before the Master of the Rolls and the Vice-Chancellors) to form at least a temporary Court, which would have been highly serviceable under an extraordinary pressure of arrears.

"call attention to the known practice of the Court "in respect to these matters, as it appears to have "obtained in the times of Lord Hardwicke and the "Chancellors appointed between his resignation and "Lord Bathurst's holding the Great Seal." The records of the Registrar's office, which Mr. Colville has permitted the writer to inspect, demonstrate this usage, and testify how frequently the business of Lord Chancellor Hardwicke, for which he has the credit in the returns, was done in his Court by other Judges, while he himself was absent, upon State affairs or otherwise. But when the presence of such auxiliaries had become unattainable from the augmented duties of their own judicatures, which was the state of things in Lord Eldon's time, as regarded the Common Law Judges and Master of the Rolls if not the Masters in Chancery, the whole labour of the Lord Chancellor's Court was left upon the Lord Chancellor himself. And therefore, when the tables show us that in Lord Hardwicke's time the Court of Chancery dispatched so many cases per annum, and in Lord Eldon's so many, we must remember that the cases dealt with in Lord Hardwicke's time were the work of Lord Hardwicke *and other Judges*, whereas the cases dealt with in Lord Eldon's time were the work of Lord Eldon alone.

But further; — the comparison between Lord Eldon's dispatch, and that of the greatest of his predecessors, is but imperfect if confined to any estimate deducible from returns of numbers only. Causes in Lord Eldon's time, as was stated by Lord Redesdale to the House of Lords [*], lasted much longer than in the time of Lord Hardwicke, "not only in the Court "of Chancery, but likewise in that House, from the "practice of a *greater number of Counsel* being em"ployed on each side, and *their speeches being much* "*longer*." And Sir Samuel Romilly admitted* that "suits were *perhaps* heard at greater length." It could not but happen, from those circumstances, and from the general progress of affairs in this kingdom, that a large proportion of the matters, classed in the foregoing tables as heavy business before Lord Eldon, would occupy and fairly demand, in the discussion and consideration of them, more time than an equal number of the matters there classed as heavy business before Lord Hardwicke. With the multiplication of civil and commercial rights and relations, with the increase of joint stock companies, with the extension of trusts and credits, and with the invention of new securities, liens, and charges, upon all sorts of property, the legal and equitable liabilities of individuals and of aggregate bodies have multiplied: and the number of the parties to suits, and the number of points to be respectively adjusted among those parties, and the consequent length of the proceedings, have increased to an amount which Lord Hardwicke and the other Chancellors of the last century not only had never to struggle with, but probably never even anticipated.

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[*] Parl. Deb., June 24th, 1812.

It is undoubtedly quite true, — but surely after the official returns which have been produced it becomes wholly immaterial to the *present* question, — that the arrears of the Court of Chancery, instead of diminishing after the appointment of a Vice-Chancellor, did in fact, after that arrangement, continue greatly to accumulate. The Edinburgh Reviewers, in a caustic article of their January number for 1824, insisted that unless the Equity business could be proved to have more than doubled, which they asserted that "no man would be so wild as to dream," the addition of the Vice-Chancellor's Court was sufficient to give to the Lord Chancellor the means, not only of keeping down the arrears in the Court of Chancery, but of overtaking the increase of appeals in the House of Lords. But, if they and their friends were right (which it must be admitted that they were) in predicting, on the discussions respecting the creation of a Vice-Chancellor, that the effect of it would be to occupy the chief part of the Lord Chancellor's time in the Court of Chancery with appeals and appellate motions, then, to the whole extent of that large consumption of time, the original business of the Court, without blame to any one, would necessarily be as much delayed as ever. The House of Lords may have been a good deal mistaken in their anticipation of the efficacy of the Vice-Chancellor's Court as a means of reducing arrears; — but that is not the question here: the matter now in issue is merely whether, in the working of the suitors' business, after that measure as before it, Lord Eldon gave the full and diligent judicial co-operation which the country had a right to expect from his high reputation, position, and ability; and the way to determine this point is not by inquiring what share he took of *original* Equity business or of business of any *one* other description, but what amount of business of *all* sorts he dispatched in the chair of his Court. He undoubtedly did not make the same impression on the arrears which would have been made if he could have devoted himself to the reduction of them uninterrupted by the new appellate business arising out of the Vice-Chancellor's judicature; but the returns hereinbefore given of his actual business authentically prove, that, in the judgment-seat of the Court of Chancery, both before and after the new tribunal had been erected, he disposed of an amount of business equal to — nay, even larger than — the amount which the most efficient of all his predecessors had ever found means to get through.

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* Parl. Deb., Feb. 11th, 1813.

The Edinburgh Reviewers admit, by the very form of their argument, that it fails them, if the business of the Court can be shown to have more than doubled after the creation of the Vice-Chancellor's Court; but this, say they, "no man would be so wild as to "dream." And yet the fact of its having doubled, and more than doubled, is actually proved to the waking eyes of mankind, by sober official documents, printed, published, and accessible to all the world. It will be found from the before-mentioned return, III. No. 1., that, during the four terms of 1812, the year preceding the Vice-Chancellor's appointment, the average number of causes ready for hearing in each term was only 107½, and the total number of new ones set down in that year but 50; whereas, during the four terms of 1823, the year immediately preceding the publication of that very number of the "Edinburgh Review," the average number of causes ready for hearing in each term had increased to 277, and the total number of new ones set down in that year to 450. The excess of 1823 over 1812 in exceptions, further directions, pleas and demurrers, set down for hearing, is in the proportion of about three to one. Of the motions there is no return for the period preceding the Vice-Chancellor's appointment; but it is presumable that the motions bear generally a proportion to the other business, except where the other business gets into arrear, when the number of motions is always found to increase, from the necessity of supplying by interlocutory orders the want of formal decrees.—So much for "the wildness of dreaming that the Equity business could have more than doubled."

It had happened, too, although on the one hand the force of the Court had been increased by the appointment of an additional Judge, that, on the other hand, during the two or three years preceding the date of the parliamentary attack on Lord Eldon in 1823, the dispatch of business had been seriously retarded by the long and repeated illnesses of Sir Thomas Plumer, the Master of the Rolls, who, in the beginning of 1824, sank under his protracted sufferings.

The Lords' Committee, in their report, ordered to be printed 17th June 1823, pp. 4, 5., draw this emphatic conclusion:—

> "There is now a manifest impossibility that any person holding the Great Seal can find the time which is requisite for the business of the Court of Chancery and the House of Lords, and for all the other great and arduous duties of his high office."

Sir Samuel Romilly, who seldom missed an opportunity for a reflection upon Lord Eldon, wrote thus on the 17th of August 1814 to Mr. Dumont:—

> "We are now drawing near to a close of our Chancery "sittings; but, as the Chancellor always loses a great deal of

"time in the early part of the year, he makes up for it by "extraordinary diligence at this season."

Ought it not to have occurred to Sir S. Romilly, that a Chancellor, who annually employed this "extraordinary diligence" during the vacation, to redeem the arrears which had grown up while Parliament was sitting, was likely to have incurred those arrears, not by idle "loss of time in the early part of the year," but by the pressure of that parliamentary and political business which, from January to July, was ever and anon unavoidably withdrawing him from the Court of Chancery to the House of Lords, to the Privy Council, to the Cabinet, and to the Chamber of the Sovereign?

Mr. Brougham was more candid in his style of attack. He said:—*

"It was not perhaps so much a matter of blame, as it was "of excuse, to the Noble Lord, that he had too much to do; "that he was obliged, by his political duty, to be in one "place, when his judicial duty required of him to be in "another—that he was now there when he ought to be "here—that he was one day obliged to attend the presenting "of the Recorder's report, and on another day to attend the "Cabinet Council. Again, he was engaged in hearing Appeals before the House of Lords; and these, with a variety "of other occupations, allowed him little or no time to attend "to the efficient discharge of his judicial duties in the Court "over which he presided. Amongst other disadvantages of "those various avocations to which his Lordship was "subjected, the suitors had to experience this material "and important one—that the Lord Chancellor could not "attend continuously, at any one time, to hear the whole "of a case, so as to be able to take a full view of it, and

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* Parl. Deb., May 18th, 1826.

"to decide at the moment that all the arguments on both "sides were fresh upon his mind; but by being now called "off here, and again called off there, he was only able to "collect the case as it were by piecemeal, and to decide "(when he did decide) upon it, after that disjointed and "disconnected hearing of it. These various distractions "realised the observation, which was so familiar in the House "about ten years ago in discussions on this question, on "account of the political and judicial functions of the Lord "Chancellor interfering with each other, that thereby the "'judicial year was diminished, not by minutes or hours only, "'but by days, and weeks, and months.' So it was now, and "would continue to be until the judicial was separated from "the political character of the Lord Chancellor." *

These opinions, it must be confessed, were considerably at variance with those expressed by the same eminent orator on some other occasions, where he did not hesitate to lay the whole blame of the arrear upon the supineness of Lord Eldon; but they have their value as admissions made by a well-informed adversary. On the acknowledged charge, of delay in particular judgments, they suggest some palliation: while on the charge now under review, that of general arrear, they afford a complete vindication, as showing that this arrear, so far from being caused by the *laches* of Lord Eldon, was really, in the times he had to deal with, an inevitable consequence from the constitution of the Chancellor's office and Court. A passage of a speech made by Mr. Peel on the 24th of February 1824, when Secretary for the Home Department, illustrates the subject very strikingly: —

"He had frequently been the occasion of withdrawing the "Lord Chancellor from the Court over which he presided, to "attend to the Recorder's report, on which it was the duty

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* See likewise Parl. Deb., May 18th, 1827, pp. 733, 734.

"of the Lord Chancellor to give his advice to his Majesty. "The Noble and Learned Lord was in this manner very "frequently withdrawn from the contemplation of Equity "causes, to the consideration of those cases in which was in"volved the question of life or death. It had fallen to his "lot to send to the Lord Chancellor at the rising of his "Court, to inform him that on the ensuing morning his "Majesty would receive the Recorder's report, containing, "probably, forty or fifty cases. On proceeding from the "Court of Chancery, the Noble and Learned Lord would, as "was his uniform practice on such occasions, apply himself "to the reading of every individual case, and abstract notes "from all of them; and he (Mr. Peel) had known more than "one instance in which he had commenced this labour in the "evening, and had been found pursuing it at the rising of the "next sun. Thus, after having spent several hours in the Court "of Chancery, the Noble and Learned Lord often employed "twelve or fourteen more in the consideration of cases which "involved the life or death of unhappy culprits. If, in conse"quence of the various duties which the Lord Chancellor was "called upon to execute, some delay should arise in the proceed"ings in Chancery, could it be imputed as blame to the indi"vidual, when it was known that his whole time was devoted "to the service of his country? If, indeed, it were the dis"position of the Lord Chancellor to indulge in pleasures and "idle amusements, he might justly be blamed for the delays "which occurred in his Court; but when, as was really the "case, that individual had for a period of two-and-twenty "years denied himself every indulgence, shunned every "pleasure, and secluded himself from the society of the "world, in order to devote his whole time to the performance "of his public duties, it would be the most unjust thing "possible to make it matter of crimination against him, that "he was not able to compass the whole of them."

Mr. M. A. Taylor, who had originated the examination into the delays of Chancery, declared in the House of Commons, on the 5th of April 1827, after the Commission had gone through its inquiries, his intention to show, on a future occasion, that the Chancellor had more to do than it "was in the power "of any human being to dispose of." And Mr. John Smith, a steady member of the party opposed to Lord Eldon, had on the 27th of the February preceding expressed to the House his opinion, "that no man had so much to do as that Learned Lord, and that no man succeeded in doing so much. Indeed it was his belief that to do more was not in the power of man, and would require superhuman abilities."

Such was the substantial character of Lord Eldon's dispatch, up to, and for some little time after, the issuing of the Chancery Commission in 1824. It was not till toward the close of his long Chancellorship that his exertions began to slacken with age. Three quarters of a century, though they did not in the least impair his great intellect, were not without their effect upon his powers of labour. This was felt and observed by the Bar before his retirement in 1827, although, for his final years, there are no official returns to indicate the precise measure of the relaxation.

The true causes of the general arrear complained of in Lord Eldon's time were pointed out before the Chancery Commission, by a witness whose abilities, experience, and accuracy, give a decisive weight to his evidence, namely, Lord Langdale, the present Master of the Rolls, then Mr. Bickersteth. He attributes the delay at that time existing, not to neglect on the part "of *the then Chancellor*, but to the general "inability of *the Court* to dispose of the business "which comes before it;" and that inability he traces to several causes. These are, the state of the law, and the mode of its administration: the insufficiency of the time applied to judicial purposes: and (which he places first in order) the want of an adequate number of Courts to dispatch the business. With respect to the state of the law and the mode of its administration, he recommends a general revision of the whole system. With respect to the insufficiency of the time devoted to judicial purposes, he is of opinion that it would scarcely be advisable to increase it, either by abridging the vacations, or by requiring from the Judges a greater number of hours on the days of their sittings. But he insists on the necessity of supplying this defect, — and the other which is akin to it, the want of an adequate number of Courts, — by the creation of additional Judges, — a remedy which the Legislature has now, at length, provided. He observes, that an accumulation of arrears may begin and increase, notwithstanding the utmost exertions of a most diligent Judge; and that *a Judge has no right to hurry.* He adds, "*What I conceive to be the fault is, that assistance is not obtained* as soon as the arrears begin to exceed a very limited amount." And he gives it as his opinion that it would be impossible for the then existing number of Judges, by all the efforts which could reasonably be expected of them, to keep down the business.

This important testimony, though it does not relieve Lord Eldon from the charge before dealt with, of deferring *particular judgments,* yet fully exculpates him with respect to the *general arrear* in his Court. And it is an exculpation the more conclusive, because, if Lord Langdale had been a witness capable of being in any the slightest degree warped on such a subject by his political opinions, those opinions were adverse to Lord Eldon and to his party.

Lord Lyndhurst's testimony to a similar effect, delivered to the House of Lords, in his speech of the 12th March 1829, has already been inserted at the place of its date.

But how was it with the Chancellors of other days? Had they the good fortune to encounter no pressure of business, which it was impracticable to keep down? no remonstrances of suitors? no invectives of pamphleteers? So far were they from enjoying any such exemption, that the very best of them were assailed with just the same imputations of general arrear, which for so many years were repeated against Lord Eldon: only, as there was not, in their cases, the same peculiar political interest mixed up with the subject, the complaints against them were not so industriously, and therefore not so extensively, circulated.

It is related, indeed, that Sir Thomas More, when Lord Chancellor to Henry VIII., did once so master the business of his Court, as actually to clear all matters from its list. But Fuller, who, in recording this achievement, remarks after his quaint fashion, that, "as More was born in Milk Street, so he was "the brightest star that ever shone in that *via lactea*," preserves a quatrain, indicating how great a feat such a clearance was considered, and how unlikely ever to be repeated: —

"When *More* some time had Chanc'llor been,
No *more* suits did remain:
The same shall never *more* be seen, —
Till *More* be there again."

In the reign of James I. Lord Coke is found complaining that "the Chancery embraceth so many "causes, as the Chancellor and Master of the Rolls "cannot possibly determine them." Yet the Master of the Rolls was Sir Julius Cæsar, and the Chancellor Lord Bacon himself. Lord Keeper Williams, who succeeded Lord Bacon, made a great effort, but of a kind which neither Bench nor Bar could have sustained for any considerable time: he went into Court two hours before daylight and continued his sittings till eight or nine in the evening.

A pamphlet, quoted in the "Quarterly Review" for October 1823, and entitled "Proposals for Regulating the Law," by Calthorpe, afterwards Recorder of London, speaks bitterly of great delays and intolerable charges in the time of Littleton, Lord Keeper to Charles I. Cromwell attempted a remedy, by ordinances which he issued to the Commissioners of the Great Seal, Whitelocke being one; but the Commissioners were unable to work them. Lord Keeper Guildford, after the Restoration, endeavoured to imitate More and Williams; and he so far succeeded that, as we learn from Roger North, his remanets, if any, were few. But it was a short-lived exertion: and mark what North relates to have followed:—

> "This continued *till the Parliament*, and more unhappily, "his own weakness, came on, and made him unable to con-"tinue that close application to the business of the Court; "and for want of due time allowed for hearing of causes, the "reins of the Court grew loose, and the paper became loaded "with remanets, which to see was, of itself, to him a sickness. "And I am confident it was one and not the least ingre-"dient, in bringing forward upon him that fatal distemper, "which, after it had once seized, never left him till he died."

The "Quarterly Review," in the able article from which the reference to Recorder Calthorpe's pamphlet has already been quoted, refers to another pamphlet, written during the Chancellorship of Lord Somers, by a Mr. Williams, — a name of fear to Chancellors, — in which that author affirms of the Court of Chancery, —

> "That the charge and *delay in proceedings there* are grown "to be such that, in causes of great wrong and oppression, "the remedy is worse than the disease; and most men, of small "and independent estates, that come thither for relief, often "meet with ruin by the very charge of the proceedings."

In the reign of Queen Anne, while Lord Cowper held the Great Seal, a work came out entitled "Reasons humbly offered to both Houses of Parliament for passing a Bill to prevent Delays and Expenses in Suits in Law and in Equity;" and herein, among other like remonstrances, the author has this passage: —

> "The unavoidable expense, as well as unnecessary delay, "in the prosecution of suits in the Courts of Law and Equity, "*especially in the latter*, are become so exorbitantly great and "burthensome to the subject, that they may be justly ranged "amongst our first-rate grievances."

The "Quarterly Review" adds one more extract, from a pamphlet the name of which it does not mention, but which was levelled against Lord Hardwicke himself: —

> "The High Court of Chancery is incontestably the *most* "*dilatory*, as well as the *most expensive*: an *oppression* which "his Majesty's subjects have long laboured under, and uni-"versally complained of; inasmuch that the interrogatory "proverb hath not been more jocularly than pertinently pro-"posed, to such who, with more precipitation than precaution,

"resolved to engage in Chancery suits: 'Will you be hung "'up six or eight years in Chancery?' implying, that his "cause may so long depend there, until his purse and patience "are exhausted, his health impaired, and his person (by vex- "ation) emaciated, like a skeleton in the study of a physician, "or an anatomy in the office of a surgeon: for the delay of "justice is said to be the denial thereof; since what is not "done in due time is not done at all: 'Justitiæ procrasti- "natio, ejusdem fit abnegatio.'"

Nor was Lord Hardwicke censured only for the *general* arrear of his Court; like Lord Eldon, he was greatly blamed for his own *individual* delays of *judgment after hearing*. Mr. Cooksey, in his "Lives of Lords Somers and Hardwicke," inserts a letter from "a gentleman of the law," who complains "how *few* "*decrees* Lord Hardwicke made in comparison to the "*many causes that came under discussion* in his Court;" and that "the length of time to which every cause "was protracted made the suitors weary, and glad to "submit to any decree suggested and agreed upon by "their counsel."

In the examination, before the Chancery Commissioners, of Mr. Forster, a solicitor of great respectability and experience, who had practised in Chancery for about forty years from 1774, there occur these questions and answers:

"*Q.* The Commissioners understand you to say, that "during the times of Lord Loughborough and Lord Thur- "low, there were similar complaints of delay as there are "now? — *A.* No doubt about it.

"*Q.* Had you at that time, then, as a solicitor, experienced "any delay to be complained of, in getting your cause heard "and decided after it was set down for hearing? — *A.* Yes, "uniformly great delay in waiting for hearing; and occa- "sionally great delay in waiting for decision."

Lord Eldon had himself a story of a very old lady, a peeress, who came into Court in person when Lord Thurlow was Chancellor, to be examined touching her consent to the transfer of some property. This business having been done, Lord Thurlow told her he would not detain her. "But," said she, "I should "be glad if your Lordship would let me stay a little "longer; for my cause has now been in Court eighty-"two years, and I want to see how they are going on "about settling it." Lord Eldon used to say he would leave it to others to guess which first came to an end, the old lady or her cause.

Lord Thurlow, in many of the qualities of his mind, exhibited a striking contrast with Lord Eldon, and possessed especially that one judicial requisite in which Lord Eldon was alleged to be most deficient, a ready and bold decision. Yet the complaints of general delay in the Court of Chancery were as loud in his time, as in the times that preceded or followed him. He laid the whole blame on the Solicitors. "I hear no complaints," he would say, "but from persons who "have been themselves the cause." It may have been true, in all times, that much of the delay has been owing to Solicitors: but it is also true that no diligence of theirs could ever have relieved the system from the just imputation of being dilatory and costly, and that at no time were its modes of practice sufficiently simplified; nor, until the recent creation of two new Vice-Chancellors, was its regular establishment of Judges sufficiently numerous to meet the exigencies of the business. Mr. M. A. Taylor, it is true, in his speech on the 30th May 1821, told the House of Commons the following fact which he said he had learned from

Mr. Justice Wilson, one of the Commissioners of the Great Seal in 1792 with Mr. Justice Ashurst and Lord Chief Baron Eyre:

> "His late Majesty had commanded Lord Chief Baron "Eyre, the principal Commissioner at that time, and his two "coadjutors, to appear before him at Buckingham House, "on a particular day at two o'clock, to restore the Seal, that "it might be given into the hands of Lord Loughborough. "When introduced into the presence, the King inquired of "them the state in which they had left the business of the "Court. The answer was, that if the hour at which his "Majesty had commanded their attendance had been four "o'clock instead of two, the last cause on that day's paper "would have been decided, the counsel for the plaintiff being "in the act of replying, when they were obliged to leave "the Court by the express direction of his Majesty."

But these Commissioners had no functions of state to perform; they were simply Judges, and could devote their whole time to judicial duties.

Mr. John Williams himself, in the debate of the 31st of May 1825, admitted the universality of delay in Chancery during, at least, a century and a half before the date at which he was speaking.

> "The evil, he said, *was not of modern creation;* it existed "a hundred and fifty years ago, as Butler bore testimony "in his Hudibras. For there the knight, after he had tried "every means to win the widow, direct and indirect, — and "direct means were always the best to be pursued in such "cases, — after he had assailed her with all the artillery of "sighs and glances, — after he had attempted to draw her "into an epistolary correspondence, and had tried, but in "vain, many other amatory proceedings,—received the advice "of his squire to write her 'a love letter in Chancery,' "which, he stated,
>
> 'Would bring her o'er to be his wife,
> Or make her weary of her life.'

"Yes, he would undertake to say, that the widow would "have consented to take the knight, the squire, 'the general "'camp, pioneers, and all,' rather than take in that bill of "Chancery, which was as great a nuisance a hundred and "fifty years ago as it was at present."

The Commission recommended in 1826 a great variety of alterations in the practice of the Court; but early in 1827, before there had been time to take the necessary measures for effecting them, Lord Eldon quitted the Court of Chancery. Lord Chancellor Lyndhurst, in 1828, put forth a series of orders, which accomplished some of the objects recommended by the Commission; and the great combination of faculties, which he brought to the administration of the Great Seal, induced an expectation that, if any human strength could accomplish it, Lord Lyndhurst would be able to overcome the arrears of his Court. But those arrears continuing to accumulate, he was constrained, in 1829, to propose a measure for the constitution of an additional Judge. It was renewed in 1830, but strenuously combated by the Whigs, who still fostered the notion that the work was not took much for those already appointed to perform it: and the demise of the Crown having brought the Session prematurely to a close, the measure did not ripen into law in that Chancellorship.

Lord Brougham next grasped the Seals. He had been the most formidable of Lord Eldon's assailants. But, observed Lord Langdale in the House of Lords, 13th June 1836, when he himself (Lord Brougham) became possessed of the Great Seals, at first he was so far from supposing that the appointment of a new

Judge was necessary, that he seems to have thought *the Court stronger than enough*, and he actually expressed his opinion that by the changes he was to bring about, *he should be able to dispense with the office of Vice-Chancellor.* This was in February 1831. In July 1833, further experience had so far altered his Lordship's views, that he laid on the table of the House a Bill, entitled, an " Act *for appointing a Chief Judge in Chancery*, and for establishing a Court of Appeal in Chancery." Yet the business had not become greater since the time of Lord Eldon: on the contrary, the number of bills filed in the three preceding years, 1830, 1831, 1832, had been only 6510; whereas during the three years 1819, 1820, 1821, which for the reasons before-mentioned have been selected as the tests of Lord Eldon's judicature, the number of bills filed was 6654: and in the years 1821, 1822, 1823, the last of which was the period when the war upon Lord Eldon was at its hottest, the number was 6988. It was therefore under a pressure, rather diminished than increased since Lord Eldon's time, that Lord Brougham, the great impugner of Lord Eldon, found himself compelled in 1833 and 1834 to call upon the Legislature for additional aid. Now, however, the criticisms of lawyers may differ upon some of the judicial merits of Lord Brougham, merits which probably will be more highly estimated hereafter than political causes have suffered them to be in his own generation — *urit enim fulgore suo* — none will deny him to be unsurpassed in vigour and in speed. And yet with all that speed and with all that vigour, he was unable to accomplish the feat, which in the time of Lord Eldon he had con-

conceived to be so easy, and which he had rated Lord Eldon so roundly for failing to achieve.

The sanction of Parliament having been withheld from Lord Brougham's measure, Lord Cottenham, the succeeding Chancellor, though justly held in high estimation as an Equity Judge, found it as little practicable as any of his predecessors to keep down the business of his Court without additional assistance. And thus, year after year, the evil continued and grew, until at length a bill for the creation of two additional Judges was introduced by that party in politics who, during Lord Eldon's time and under an equal or greater pressure of business in the Court, had ever protested against any such increase as being useless and profligate. The measure, after some defeats, was finally passed into law: and now, in addition to the ancient Court of the Master of the Rolls, there are three Vice-Chancellors to assist the Lord Chancellor in doing what Lord Eldon was perpetually censured for not having been able to execute alone.

After such a proof of the huge disproportion of the Chancery business to the faculties of any one of the powerful minds that have been engaged in the reduction of it, and after the tardy concurrence of all political parties as to the necessity, not of *one*, but of *three* Vice-Chancellors, to help in performing the duties of the Great Seal, the charge of *general arrear* will lie lightly on Lord Chancellor Eldon.

I 4.

Beside the two *positive* heads of impeachment, as to particular judgments delayed after hearing, and as to general arrears,—great pains were taken also, in the way of *negation*, to represent Lord Eldon as being, after all, but meanly gifted with the qualifications for his high office. Keen partisans, in private circles, put out feelers in order to the depreciation of the Chancellor; and the "Edinburgh Review" for October 1823 came forth with the formidable article already quoted, collecting and enlarging upon all the flaws which the political ingenuity of that time could find or plausibly suggest in his judicial character. They are summed up in the following passages, which have been truly described to "contain everything that can be said in the way of disparagement:"—

"It would be difficult, we conceive, to deny that he more frequently gives proof of *caution than of boldness*, of *subtlety than of vigour*, in his reasonings — that in the determination of particular cases, he seems too often to exercise his ingenuity *in raising up doubts and difficulties, rather than in clearing them away* — and, above all, that he confines himself far too rigidly to the decision of the special matters that come before him, *without aiming either at the establishment of general principles, and the improvement of the science he professes*, or at the *correction of those vices in the constitution or administration of his Court*, of which he daily hears and sees too much to make it conceivable that he should be ignorant. Whoever, in short, may have been driven to toil in that laboratory called Mr. Vesey Junior's Reports, comprised as it is within the very moderate compass of *eighteen* solid octavos, with various accessory records of a kindred character and spirit, must have looked, we think, in vain, for that great and commanding talent and master mind, of which the possession of the highest station, and that too for so great a length of time, creates, unavoidably, some expectation.

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"We shall find, in the first place, a tortuous and mazy involution, parenthesis suffocated by parenthesis, *a profuse, inelegant, and cumbrous verbiage, which afflicts the reader with a sense of obscurity,* and a most painful image of labour at once interminable and unproductive. *Meaning,* in itself *never redundant or excessive,* struggling in vain through a heavy and oppressive load of qualifications, and limitations, and restrictions, creeps into light, at length, in a shape and in dimensions little calculated to repay the wearisomeness of pursuit, from its first introduction, through its general attenuation and diminution, to *its final extinction.*

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"To lay down general rules, or to establish a system in any branch of law or equity, is a matter of risk and difficulty, and cannot safely be undertaken but by persons of great knowledge, and of a great reach of intellect, 'looking before and after.' *Those who are moderately gifted or stored,* will do well *not to adventure,*—just as it is better to do nothing than to do mischief. The course for such persons is to avoid *excursions,* and to move within the most confined and narrowest limits which the execution of the immediate task before them can possibly allow. They must keep clear of general reasonings, and circumscribe the grounds of their decision to the particular circumstances of each particular case upon which they are called upon to adjudicate. The rights of the litigant parties, by such means, may possibly, for any thing we know to the contrary, be properly disposed of; but such a procedure is not, in any larger sense of the word, and with a view to creating a scheme of jurisprudence, or providing a store of knowledge for those who are to come after, a judgment or decision at all.

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"In times past, things were otherwise: But 'there were giants in those days.' In the Reports, our professional readers are aware, *Lord Coke invites the attention* of the inquirer and (where he is concerned, we may safely add) learner, *to adjudications* which took place *beyond the mere decision of the point in issue* between the parties, in his peculiar and somewhat grotesque manner. 'Note, reader, that the following points were settled and resolved.' Then follow, *seriatim*, quite as a matter of course, conclusions and corollaries of law to the number of half a dozen, and oftentimes more, as the case may be, distinctly and fearlessly laid down, — and, moreover, without one single parenthesis to pare them down and fritter them away to nothing. Where are the 'Resolutions' of the Earl of Eldon? *In what part* of those ample magazines of learning (bonding warehouses under double lock), to which allusion has before been made, will the painful and fainting student find any of *his* adjudications which unequivocally *enlarge, correct, or define the rules of Equity* in which he has been so long engaged? Why, *his decisions are absolutely the exclusion of all conclusion.* And as the facts to which they are strictly confined cannot exist again, either actually in specie, or so nearly the same but that acuteness and subtlety may be able to find distinctions, it follows, as of course, that *an approximation is made towards the possession of that discretion of which power is naturally so much enamoured;* and which those, who are prudently and wisely jealous of power, find it their interest as much as possible to restrain." *

This is clever writing; and, from the tone of it, and the sensation it made in its day (not perhaps unremembered even now), the unprofessional reader may be apt to infer that the article must have proceeded from some lawyer deeply cognisant of that particular department of jurisprudence over which Lord Eldon presided. If that was the case, by what odd chance did it happen that the lawyer, supposed thus familiar with

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* Edinb. Rev. Oct. 1823, pp. 249—251.

Equity and its Court, should have been absolutely unacquainted with the number of those volumes of Vesey Junior which are the daily hand-books of every Equity practitioner, and of which the latest, the *nineteenth*, bringing down the Reports to the beginning of 1817, had been complete and bound up in almost all the chambers of Lincoln's Inn some terms before that article could have been in preparation? If the Reviewer had been speaking of any other legal work, an error of this sort might not have been material; but in the case of these particular Reports, it is the most awkward little circumstance in the world for his authority. Not only did Vesey Junior's Reports constitute the very collection of judgments which the Reviewer had undertaken to anatomise, but they were reports, of which a new volume, nay, a new number, could not have been out for a single week without the knowledge of every man at all engaged in the business of a Court of Equity, especially when it happened to contain cases that excited great professional interest, such as the noted decisions, upon Mr. Blundell's will (Bootle *v.* Blundell, 19 Ves. 494.); upon the attempt of a solicitor to go over from his original client to the adversary (Cholmondeley *v.* Clinton, 19 Ves. 261.); upon Lord Mansfield's equitable doctrines, Clarke *v.* Parker, 19 Ves. 21: and upon various other important points from 1812 to 1817. It will probably therefore be thought no unreasonable inference, that the article must have been written either by some gentleman not belonging to the Bar, or, which is the more generally received opinion, by some eminent Barrister not conversant with Equity business.* In either case, it is obvious that the criticisms, if they are to have any weight, must derive it from something more than the mere authority of the writer. Let us therefore examine the several imputations themselves — those oft-repeated topics of disparagement, in the private circles of the discontented, for many a day of party heat.

Very few words will suffice upon the style in which his judgments are worded. It may at once be admitted that, as literary compositions, they are faulty enough, — inconveniently parenthetical, and over abundant in limitations and qualifications. But which of them has been shaken by reversal or appeal, or by subsequent decisions in *pari materiâ*, or by the dissent of Westminster Hall? which of them, with all the involution which may be charged upon its mere phraseology, has ever been passed over as *unmeaning*, by any Court, or by any Counsel acquainted with the subject of it, — or, even to this hour, is ever cited but as an authority conclusive of the point it rules or the doctrine it illustrates?

But he evinced "more of caution than of boldness, of subtlety than of vigour." Vigour and boldness, though sometimes valuable qualities in an advocate, may be very questionable virtues in a Judge. But, all show of vigour and boldness apart, had he that real and substantial power of intellect, by which, no doubt, a Judge's subtlety and caution ought to be backed, and which alone can fix decision upon a solid basis? Against the Reviewer, whether professional or not, hear the words of a witness whose legal eminence gives to his testimony the very highest value upon a question of judicial qualification, and who, as a member of the Roman Catholic Church, would be peculiarly indisposed to any blind admiration of Lord Eldon,—hear what estimate of Lord Eldon's power, — (not vigour — certainly not boldness — for these would not have been deemed titles to praise) — was entertained by the late Charles Butler: —

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* Conjecture has ventured upon the name of no less a person than the present Mr. Justice Williams.

> "In profound, extensive, and accurate knowledge of the principles of his Court, and the rules of practice which regulate its proceedings, — in complete recollection and just appreciation of former decisions, — in discerning the inferences to be justly drawn from them, — in the power of instantaneously applying this immense theoretical and practical knowledge to the business immediately before the Court, — in perceiving, almost with intuitive readiness, on the first opening of a case, its real state, and the ultimate conclusion of Equity upon it, yet investigating it with the most conscientious, most minute, and most edifying industry, — in all, or in any of these requisites for a due discharge of his high office, Lord Eldon, if he has been equalled, has assuredly never been surpassed by any of his predecessors." *

How highly Lord Eldon valued such a testimonial from such a man will appear from the letter in which he acknowledges it: —

Lord Eldon to Charles Butler, Esq.

"Dear Sir, "19th April 1822.

"Seeing your 'Reminiscences' offered to the public, I have placed them in my library. I wish I could satisfy myself that Lord Eldon was entitled to all the approbation which your partiality has bestowed upon him. I have ventured to think that my life exhibits a remarkable proof of what may be done, in a free country, by moderate talents and never-ceasing industry, but I have never presumed to think that I had the merit you have been pleased to think it good to ascribe to me. I have felt more consolation than I can express, in reading, in a part of your work, what a considerable person stated in answer to the imputation of being dilatory.* That has been often, and I admit most fairly, imputed to me; to all who accuse me of it, I wish to give, as my answer, the passage I allude to. I must soon quit this scene: whether any memory of me will survive me, I know not, but I hope I may have descendants professing the Law: and if I have, (as they must study the works of Charles Butler, if they mean to understand their profession,) those descendants at least will be taught to entertain, upon very considerable authority, a favourable opinion of the character of their ancestor.

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* Butler's Reminiscences, 1822, p. 141.

"Yours, dear Sir, ELDON."

The suggestion about Lord Eldon's being one of those who stand in contrast with "persons of great knowledge and of a great reach of intellect," by being but "*moderately gifted or stored*," may be dismissed without any other observation than a candid acknowledgment that its author evinces no mean share of the "boldness" which he describes Lord Eldon as lacking.

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* Mr. Butler says, "the only fault imputed to D'Aguesseau was dilatoriness of decision; we should hear his own apology. The general feeling of the public on this head was once respectfully communicated to him by his son. 'My child,' said the Chancellor, 'when 'you shall have read what I have 'read, seen what I have seen, and 'heard what I have heard, you 'will feel, that if, on any subject, 'you know much, there may be also 'much that you do not know; and 'that something even of what you 'know may not, at the moment 'be in your recollection: — you 'will then, too, be sensible of the 'mischievous and often ruinous 'consequences of even a small 'error in a decision; and con'science, I trust, will then make 'you as doubtful, as timid, and 'consequently as dilatory, as I am 'accused of being.'" — *Butl. Rem.* p. 264.

"But he seems too often," continues the Edinburgh article, "to exercise his ingenuity in raising up doubts and difficulties, rather than in clearing them away." This has been a common, but is not a very intelligible, charge against him. Any doubt or difficulty of which the clearance was *necessary* in the particular case, *must* have been cleared by the judgment which decided that case; and any expression of opinion, assuming to determine any doubt or difficulty which the case may have suggested, but of which the clearance was *not necessary* to the judgment *in that case*, would have been a mere *obiter dictum*, which modern practice, herein wholly differing from that of the times for which Lord Coke is vouched by the Reviewer, would have held to be of no authority. But then, why, it may be asked, should the Judge have adverted to such questions at all? The answer will at once occur to lawyers: he did not circumscribe his decision for the narrow, timid purpose, intimated in the Review, of making it "the exclusion of *all* conclusion;" but he was expressly careful, in order to the protection of subsequent suitors, that it should exclude all conclusions *to which it did not legitimately lead*—that its scope and limits should be precisely apprehended:—that lawyers, thereafter exploring in the same direction, should be enabled to see how far along the road their footing would be sound, and at what point it might probably become insecure.

The whole of that long count of the foregoing indictment, which charges Lord Eldon with shrinking from the hazard of *general reasonings, resolutions and rules*, is substantially represented by the allegation near the beginning of the extract, that "above all, he "confines himself far too rigidly to the decision of the "special matters that come before him, without aiming at the establishment of general principles, and "the improvement of the science he professes." Now, undoubtedly, in the advanced stage which, when Lord Eldon came to the Seals, "the science" of the Law had reached, the Chancellor did not—for he had not to do—what belonged only to the infancy of that science. A principle wholly new can only be elicited when some new emergency gives rise to a new class of cases: an occurrence which every succeeding century renders more and more infrequent. The very extent of what had been defined by Lord Eldon's predecessors left the less in his power to define. Of Jurisprudence, as of most other sciences, the great or *general principles*, in their nature, can be but few; the rest must be made up of minor considerations, whether distinctions or analogies; and the few general or great principles are usually, in the code of every country, laid down by its earlier law-givers.

But is it true, that, within that field which was left to him, Lord Eldon shrank from the task of evolving and establishing general principles? That, certainly, has not been the conclusion of the most competent judges.

Mr. Swanston, than whom the Bar acknowledges no lawyer combining more largely the philosophy and scholarship of his profession with the knowledge of its details, expresses, in the preface to his reports of Lord Eldon's judgments in 1818 and 1819, a wish to "indulge the belief that he had materially con- "tributed to preserve and render accessible a series "of decisions, in which, by an union of juridical "talent and learning never surpassed, *the doctrines of "equitable jurisprudence have assumed the character "of a systematic science.*"

In 1822, Mr. Jarman published his work upon that extensive subject which occupies so large a proportion of the whole time and attention of our Courts of Equity, the Law of Devises: a work, which, though professing, as to its first volume at least, to be an edition of Powell's earlier essay, is in truth, as to both volumes, a masterly outline of this vast department of jurisprudence, combining the profoundest learning with the most comprehensive views and the most perspicuous style. This eminent lawyer, having confined his practice to his chambers, had little motive for propitiating the Bench: yet he thus addresses himself to Lord Eldon:—

> "In tracing the learning of devises through the later reports, how often do we find your Lordship reviewing a long line of authorities, noting their distinctions, correcting their errors of fact and law, and finally *extracting*, or *supplying*, a *principle, on whose broad and solid basis a multiplicity of questions, which must otherwise have called for repeated adjudication, may satisfactorily rest.*"

What Mr. Jarman thus observes respecting the principles established in the law of real property, is equally true of many other important departments, in which grounds, barely indicated by former judges, were first laid clear and made firm by Lord Eldon. The true test will be, have his judgments been so reasoned that counsel when called on to advise, and Courts when called on to adjudicate, in kindred matters, have been able to find their clue in his expositions, and to frame opinions and settle litigations by his light? It is not within the scope of this work to give technical details; the unprofessional reader takes no interest in them: and, for lawyers, it will be sufficient to insert a reference or two, not purporting to exhaust this subject, but only to exemplify it. Thus we find, in the case of Evans *v.* Bicknell, 6 Ves. 174., the principles which explain the rights of successive mortgagees, as affected by the delivery or non-delivery of title deeds:—in the cases of Aldridge *v.* Cooper, 8 Ves. 382., and of Booth *v.* Blundell, 19 Ves. 494., and 1 Mer. 193., the principles which determine the application and marshalling of assets, and the effect of charges upon the land in exonerating the personal estate of the testator:—in the case of Mortlock *v.* Buller, the principles which regulate the Court in decreeing specific performance of contracts:—in the case of Exparte Pye, 18 Ves. 140. 154., the principle which decides in what cases the benefactor of an infant shall be deemed to have placed himself *in loco parentis*,—to the merit of which principle, so defined by Lord Eldon, we find Lord Cottenham, himself a judge of the highest estimation, bearing this strong testimony; it is "a definition which I readily adopt, not only because it proceeds from *his high authority*, but because it seems to me to *embrace all that is necessary to work out and carry into effect the object and meaning of the rule.*"

When he came to the Great Seal, there was, upon the subject of literary property, a question which was not settled by any positive decision, but which may be said to have been of great constitutional importance. It related to the principle on which the author of a work should be entitled to an injunction restraining the piracy of it. A notion had long been prevalent, that this right of an author was a general and unqualified one, available to him irrespectively of any question as to the character of his work. Thus, injunctions had been granted against the piracy of the "Dunciad," notwithstanding its libellous passages: and even against the piracy of Mrs. Bellamy's memoirs. The law upon the subject had never been mooted, until, in an action brought by Dr. Priestley, the great apostle of Unitarianism, against the hundred, for the destruction of his manuscripts in the Birmingham riots, Lord Chief Justice Eyre told the jury that if the evidence had shown the contents of the destroyed works to be in the nature of libels upon the Government, he should have considered such proof as receivable against Dr. Priestley's claim. In this state of the law, an application was made by Dr. Walcot, the noted Peter Pindar, for an injunction against the piracy of some of his works. Lord Eldon, grounding himself upon the common law as stated by Chief Justice Eyre, refused the injunction, and laid down the principle, by which, from that time, this important subject has been regulated. His words are:—

> It is not the business of this Court, even upon submission in the answer, to decree either an injunction or an account of the profits of works of such a nature that the author can maintain no action at law for the invasion of that which he calls his property, but which the policy of the law will not permit him to consider his property: Walcot *v.* Walker, 7 Ves, 1.

In the later case, of Mr. Southey's application for an injunction to restrain the sale of "Wat Tyler," a seditious work produced by him in early youth, which a bookseller, having casually obtained a copy of it, was now unfairly publishing, Lord Eldon said, in giving judgment,—

> It is very true that, in some cases, it may operate so as to multiply copies of mischievous publications by the refusal of the Court to interfere by restraining them; but to this my answer is, that sitting here as a Judge, upon a mere question of property, I have nothing to do except with the *civil* interests of the parties; and if the publication be mischievous, it is not my business to interfere with it. Southey *v.* Sherwood, 2 Meriv. 435.: and see Lawrence *v.* Smith, 1 Jacob, 471.

By these cases the law is settled, that the Court of Chancery will give no protection to the authorship of a libellous, irreligious, or immoral work; and that it disclaims all preventive jurisdiction in the nature of ownership.

How far the principle thus established by Lord Eldon was a sound one, may be fairly a matter of argument; and a very able discussion of it will be found in the "Edinburgh Review" of May 1823, where he is roundly rated for having "upon a new principle," (of which he is there described as "the present and the sole authority,") "been the first to deny to authors a temporary refuge against common robbers." But the question here is not whether the Chancellor, or the Edinburgh Reviewer, took the sounder view of the policy of the law: the present inquiry is, whether Lord Eldon, after having been assailed, through four-and-twenty pages of the "Review" for May 1823, as the culpably bold parent of new principles, is justly condemned in the "Review" for the succeeding October, of shrinking, in conscious weakness, from the origination or establishment of any general principle at all.

Another of the *principles* which owe their settlement to Lord Eldon is that of the demarcation between the jurisdictions of Law and Equity. Lord Mansfield, and at one time Mr. Justice Buller also, had been desirous, as the reader has already seen*, to import the doctrines of Equity into the administration of Law. Lord Eldon, in his long presidency over the Court of Chancery, while he fully upheld the maxim that instruments and agreements must receive in Equity precisely the same construction which would be given to them at law, effectually established the great doctrine that the equitable circumstances, by which it might be fitting to regulate the *performance* of the contracts *so construed*, were matter for the jurisdiction of Courts of Equity alone. Wykham *v.* Wykham, 18 Ves. 415.; Clarke *v.* Parker, 19 Ves. 21, 22, &c. &c.

The strong doctrine laid down by him in the Wellesley case, with respect to the Court's right of rescuing children from the custody of an immoral parent, will occur to the general reader.—The mercantile world will have present to their minds the clear and practical rules which he established on the subject of securities deposited with bankers becoming bankrupts, and the large elucidations which he gave to the law of bankruptcy in so many other branches of it.—And on the whole of this branch of the Reviewer's imputation, Lord Eldon will be found fully entitled to the credit which he claims in Exp. Yallop, 15 Ves. 70., where, speaking of his own judgment, as given in Curtis *v.* Perry, upon the Ships' Registry Acts, he says,—

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* Vol. I. pp. 344—348.

> "As that was a most important case, *and the firſt of the class,* I took *a more enlarged view of it than was necessary for the decision;* and with a view *to the application of the principle of it to future cases,* I entered into the circumstances."

It is for labours like these, and not for such flights as the Reviewer desiderates, that a Judge in our days may well hope to be admired and revered. The age is gone by for "*adventuring*" upon the discovery of new regions in the law: modern Chancellors must be content to establish their names by adjusting the limits and improving the security of the old. The sphere of their utility is thus changed, but it is neither destroyed nor lowered. And indeed, of all the sciences, one should think that the law, the science of precedents and records, was the least appropriate to the "*excursions*" of an inventive ambition.

But he is further impeached of not aiming "at the correction of those vices in the constitution or administration of his Court, of which he daily hears and sees too much to make it conceivable that he should be ignorant." Now as to this, it must in the first place be remembered, that in the time of Lord Eldon it was not practicable to make changes quite so lightly as they are made in this second quarter of the nineteenth century. A Judge who in 1800, or 1810, or even 1820, should have set about re-constructing his Court, would have found that instead of securing the approbation of the profession and of the public, he was incurring pretty general displeasure and suspicion, as a wrong-headed, speculative person. He would have hazarded a great loss of confidence among the practitioners, among the suitors, and among cautious people in general, in so much indeed as to have materially impaired his own usefulness. A dozen or even twenty years after Lord Eldon's first accession to the Great Seal, it was still deemed some reason for letting things alone, that they were in the same track in which they had gone on from the Revolution. To make Lord Eldon responsible for the defects of the system, because he did not attempt, in days when all changes were formidable, a general re-construction of the Courts of Equity, is but to blame him for an omission which he shares not only with his minor predecessors, but with Bacon, Somers, Hardwicke, and Thurlow: and from which even the late Whig Cabinet, with all the undoubted capacity, learning, and diligence of Lord Cottenham, their Chancellor, did not find time to relieve themselves,—although a modern Act of Parliament, the 3 & 4 Vict. c. 94., had invested the Judges of the Court of Chancery with novel and extensive powers, to make reforms not previously feasible except by specific intervention of the Legislature. But although Lord Eldon was reluctant to initiate a course of reform, and wanted indeed the leisure to effect it at all extensively, yet when, in 1824, he was placed at the head of a Commission constituted to inquire whether any alterations could be made that might abridge expense and delay, Lord Eldon, though certainly not a very willing party to the appointment of an inquisition which had originated in feelings adverse to himself, yet gave the most cordial assistance to the work, and cheerfully partook the laborious task of settling the propositions, no fewer than 187, which the Commissioners finally concurred in recommending.

The House of Commons, on the 18th of May 1826, had some account of the proceedings of this Commission from one of its Members, Dr. Lushington, whose testimony, valuable as it is from his high character and great ability, receives yet a further weight on this particular subject from the fact that he was connected in politics with the party adverse to Lord Eldon.

> "And, first, with regard to the conduct of the Lord Chan-"cellor, he did but discharge a debt of justice to that indi-"vidual, when he said, that, from the beginning to the end "of the investigation, he had given the most material assist-"ance to the Commissioners. He did not deliver his opinions "to them as dogmas, but allowed those who doubted of their "correctness to investigate them thoroughly, affording them "every explanation which they required, and that, too, in a "manner which left on his mind a most favourable impres-"sion with regard to the learning, intelligence, and integrity "of that Learned Lord. So far from ever seeking to check "inquiry, he had done every thing to promote and forward "it."*

When the sittings of the Commission were about to begin, the Chancellor requested Dr. Lushington to have them fixed at times when he, Lord Eldon, could manage to attend. Dr. Lushington answered that there would be no occasion for the Chancellor to take the trouble of attending for the mere purpose of examining the witnesses: but that after that part of the duty should have been completed, the Commission would be most anxious to profit by the Chancellor's judgment and experience. "Oh, I see what you mean," replied Lord Eldon, laughing, "you intend to put me into the corner."

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* Parl. Deb. 18th May, 1826, p. 1256. See also Parl. Deb. 7th June, 1825, pp. 1085. and 1093.

It was only when suggestions were made for the abolition of emoluments in which the holders had interests entitling them to compensation, that he interposed the smallest objection to any useful reform proposed by the Commissioners. For, with respect to the Suitors' Fund, which has by many been thought a fit source for the payment of compensations, one of the Commissioners, the late Mr. Merivale, says in his letter to a Chancery Reformer, pp. 30, 31.,—

> "Lord Eldon had strong, and, I believe, conscientious scruples—scruples in which I am sure that many zealous reformers participate—about applying any considerable part of the interest of the Suitors' Fund to such purposes; and considering the temper of the then Opposition, and the favourite opposition doctrine that all the evils of Chancery were personally ascribable to the Chancellor, what possible expectation could be held out that the country would defray the expense? Take, for example, the suggestions of the present Master of the Rolls, already alluded to, for the abolition of useless forms of process—who can suppose that we should willingly have stopped short in carrying out the principle, which, by partially adopting, we recognised, but for these fiscal considerations, and the dread of exciting an opposition hurricane? Three, at the least, of Mr. Field's heads of "Needless Proceedings"* involve a difficulty of this nature—viz. "Orders of course"—"Messengers' oath to answer"—"Processes of contempt"—to which I might add "Subpœnas," but that Mr. Courtenay, then Master of the Subpœna office†, had handsomely declared at the outset against his own emolu-

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* See Mr. Field's Pamphlet, p. 67, &c.

† The present Earl of Devon.

ments from the office being suffered to stand in the way of its entire abolition.

The bills for Chancery Reform introduced into Parliament by Sir John Copley, in 1826 when he was Attorney-General, and in 1827 when he was Master of the Rolls, were the fruits of the Chancery Commission, and had been framed with the concurrence and under the direction of Lord Eldon, then Lord Chancellor. They failed by no fault of Lord Eldon's, but, in each case, by the circumstances of the Parliamentary Session.

It is not denied that in Lord Eldon's time, as in the times of all preceding Chancellors, there was much left undone which common consent has indicated as indispensable for the relief of the suitor from the delays and expenses incident to the prosecution or defence of any right in a Court of Equity. Even now, the recent constitution of two new Judges, though it removes one cause of delay, and that one perhaps the greatest, leaves many other causes of delay, and almost the whole evil of expense, unredressed. This is not the proper place for a detailed inquiry into the reforms which would best simplify and cheapen the proceedings in Equity suits: it is here sufficient to observe, that the remedy seems to lie in a better arrangement of the business to be done before the Masters, and in a transfer of divers interlocutory and preliminary matters to their jurisdiction, which now require the process of motion or petition before a Vice-Chancellor, with all the costs and consumption of time incident to briefs, attendances, and Court hearings. But to assimilate or approximate the proceedings of a Chancery suit to those of an action at law (the notion of half the people who talk on this subject) is a thing which not only must have been beyond the power of a Judge so much occupied as Lord Eldon, but will always, under whatever Judges or modes of practice, continue to be intrinsically and physically impossible. The trial of an action, in a Court of Common Law, is usually no more than the ascertainment by a jury of a single fact, between one or more plaintiffs having the same interest, and one or more defendants having the same interest. But a suit in Equity is a proceeding in which are usually comprehended many and distinct parties, having many and distinct interests, some direct and others incidental, some immediate and others remote. Such a suit, make the practice of the Court as summary as you can, must always be a proceeding of some length.

Take, for example, the common case of a bill filed against executors to have the trusts of a will carried into effect and the estate of the testator administered under it.—In the first place, it is obvious, upon the commonest principles of justice, that before any Court can proceed so to dispose of property, all persons who claim any interest in it ought to be brought before that Court, either personally or by some sufficient representative, so as to have an opportunity of stating and enforcing such respective claims. Let us go back to Lord Eldon's time, and take some precise period of it; for example, the year 1820. Suppose the preparations for the suit to have begun after the long vacation, that is, in November, the beginning of the legal year. By December the bill is on the file. Two months, at the least, where the defendants are at all numerous or live remote, will have been necessary to get in the answers, which will have come in about the middle of January, and may probably lead to some necessary amendments in the bill. To these, a further answer will be requisite; and the time unavoidably consumed in such pleadings, even where forms are most favourable and all parties do their utmost for despatch, will have brought you to March or perhaps April. The facts in dispute are now to be proved by the examination of witnesses; and, even supposing all the witnesses of all the various plaintiffs and defendants, to be willing and within the Court's jurisdiction, you will hardly be in a condition to set down your cause for hearing so early as Trinity Term. However, you are ready by the Term following; in which Term, Michaelmas, 1821, you set it down before the Vice-Chancellor. But as a great many other sets of parties have been doing the same thing in the same and former years, *some* arrear must be allowed for: call it an arrear of only one Term: and then your first hearing will take place about Hilary Term, 1822.

The Court now has, or, on further directions, will have, to decide upon and declare the intention of the testator, not unfrequently expressed in language creating the greatest doubt and difficulty. The original hearing is followed by a reference of facts and accounts to the Master. His judicial functions may, perhaps, be capable of some improvements in their constitution, which will aid the despatch of business; but in this stage of a cause, the very nature of human affairs will always delay you. Witnesses, or creditors, or persons otherwise interested, are abroad, perhaps in the East or West Indies; you must have time to send out advertisements and obtain returns, and, before the whole of these returns come back, another year has necessarily elapsed. Meanwhile, however, matters shall have been going on actively at home ; so that by Hilary Term, 1823, all may be ripe for the Master's consideration : but how much has he to consider? The nature and amount of the testator's property is to be ascertained—the accounts are to be taken of the receipt and expenditure of the executors, to every item of which all persons interested must have an opportunity of stating their objections;—and the debts of the testator are each to be brought forward, and each substantiated by vouchers. Then comes the inquiry into the state of the legacies— whether any of the persons to whom these are given have died, and, if so, whether they have left any and what personal representatives. These, and many similar inquiries, which vary according to the particular directions of each particular will, must precede the report of the Master. The parties before the Master, however, having been very diligent, — and his report having been made within a few weeks more, — you again set down your cause before the Vice-Chancellor for further directions in Easter Term. The ordinary arrear will prevent its being disposed of till the term succeeding. *Then*, however, the final decree is made; and your solicitor is guilty of no laches, if he gets the matter wound up in the course of the vacation.

Now the reader will perceive that here are three years consumed without the waste of a single term, in a case, too, where all parties are not only fair and forward, but friendly. Bnt how if they be hostile ? If they except to answers and Masters' reports ? If they hold out all tenable points, and appeal at last? How, if without fault on either side, there exist a necessity for trying an issue of fact at the assizes, or for referring a case to the Judges of common law? or, if new difficulties are interposed by the death of parties, or the occurrence of any other of the various events which cause new devolutions of interest in the subject-matter of the suit?—Again: if the cause be one of that large class which relates to the administration of an estate during the minority of children, ought it not to occur to any man who pretends to argue on such a subject at all, that until the youngest of the infants come of age the suit must of necessity be kept alive, whether for ten, fifteen, or twenty years, and that not a single week can be deducted from that delay by any imaginable alteration in practical arrangement or judicial despatch?

Thus much upon the difficulty of effecting reforms in the business of Chancery, strictly so called. But there exist other branches of the Lord Chancellor's judicial business. The principal of them are the judicatures in the House of Lords and in Bankruptcy; and both of these were actually indebted to Lord Eldon for improvements of the most important character. On the subject of the judicature exercised in the House of Lords, the account of his services may be fitly borrowed from the following passage of Mr. Brougham's speech, in the debate of 5th June 1823, upon one of Mr. Williams's motions:—

"The Noble Lord decided on the cases which came before him with a degree of skill and penetration—and in appeal causes from Scotland and Ireland with a degree of wisdom—

which was most extraordinary, considering that to the law of the latter countries, and especially Scotland, the Noble and Learned Lord was in some sort a foreigner. *Their law, however, he had reformed; inveterate abuses he had corrected*[*]; and the Scotch lawyers, however averse they at first were to the suggested reformations, soon perceived their value, acknowledged their expediency, and ultimately adopted them."[†]

"There was no circumstance," says Lord Eldon in the Anecdote Book, "that gave me greater satisfaction upon my quitting office than the strong testimonies I received in letters from the President of the Court of Session and the Lord Justice Clerk of Scotland, testifying the sense entertained in Scotland of my administration in the House of Lords of the law of Scotland in the hearing of Scotch appeals, and the application made to me by the Lord President, at the instance of those whom he mentioned in one of his letters, that I would continue to attend the House of Lords to assist in the decision of Scotch causes. Very early in the time of my attendance in the House of Lords, as a counsel, I expressed to the then Lord Chancellor, Lord Thurlow, my anxiety not to appear as counsel in that House in Scotch causes. This he discouraged so strongly, that I was obliged to abandon my purpose. To make myself master of such points in Scotch law, as it was necessary for me to understand in order to be able to do my duty at the Bar, was what required so much time and labour, and withdrew me so much from practice in the Courts below, that I was anxiously desirous to avoid being concerned in Scotch causes. When I became Chancellor, the duty of deciding such causes was most extremely painful, and required infinite labour. I was, however, for some time, assisted by two Ex-Chancellors, Lords Thurlow and Loughborough. I have the comfort of having reason to believe that my administration in this part of my duty was satisfactory; and whilst the number of appeals greatly increased, and by some were alluded to as proofs of delay in that administration, — by others, and those who knew best what was the fact, that increase of appeals, I was assured, was occasioned by the confidence which the lieges of Scotland had in the judgment to which they appealed. Some thought, that in decision in Scotch causes I was too much influenced by the principles of English law. There was no one danger against which I guarded myself so anxiously as the danger that I might be so influenced. Whether all the pains I took to protect myself and the Scotch suitors against this danger were thoroughly effectual, I cannot determine; I believe they were. But he must know little of the operations of the human mind, who can be positively certain that he can withdraw, in the administration of Scotch judicature, wholly and absolutely from that mind, the influence which may have been created in it by the daily and hourly contemplation of the rules and principles of English law, through a long course of years. One other objection to my administration was, that I too frequently remitted causes — in which appeals from the judgment of the Court of Session were brought to the Lords — to the Court of Session again, for further consideration, before the House of Lords proceeded to judgment. But let it be considered that an English lawyer, placed at the head of a Court of Appeal from the judgment of Scotch Judges, is placed in a very awful and responsible situation, when he feels himself disposed to reverse a judgment, an unanimous judgment, of Scotch judges in a Scotch cause. If he cannot conscientiously confirm the judgment, he cannot be much blamed, if he states his difficulties, and desires the Scotch Judges to state how they dispose of such difficulties. Lord Loughborough, who, as a Scotchman, had studied Scotch law, sometimes, but not often, remitted causes. Lord Thurlow was the person who intimated to me the necessity of making such remits, and he represented that necessity as arising from what he stated, that, in case he had difficulties, he betook himself to correspondence with the Scotch Judges, but never could so obtain a solution of his doubts. To this mode of proceeding I had a strong objection, and my memory authorises me to state, that I very early represented — that I very earnestly and strongly, as well as early, represented—that objection, to a Judge of the Court of Session, which was, that counsel for parties ought to have, and had not, an opportunity of being heard as to what had passed between corresponding Judges, if what had so passed was in any degree to influence the judgment that was to be given in the House of Lords. I think it will be found, that in process of time, as I grew more confident of my own judgment, those remits were much seldomer made, because my experience had made them less necessary for my own instruction — because they were attended with expense — and because, to my surprise, *that* obtained in the Court of Session in Scotland, which seemed to me to be contrary to the practice of all other Courts; viz. that the Court of Session, when it was called upon by the Court of Appeal, for the instruction of that Court of Appeal, to reconsider the cause, made the party, against whom they gave the reconsidered judgment, pay all the costs of that proceeding, although that party had done his utmost at the Bar of the House of Lords to prevent a remit."

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[*] See Lord Eldon's speech in moving the second reading of the Scotch Jury Bill, 23d February, 1815.

[†] 9 Parl. Deb. p. 788. See also Chap. XLVI., letter of Mr. Cameron, October, 1824.

With respect to the administration in bankruptcy, Lord Eldon, in the same month in which he first took his seat in the Court of Chancery, seized an occasion, the earliest afforded to him by the course of business, to reprobate and put down the frauds then extensively practised under cover of the Bankrupt Laws. He spoke with a warmth, not usual to him except where he had some gross iniquity to deal with. He said,—

> "There is no mercy to the estate. Nothing is less thought of than the object of the commissions. As they are frequently conducted in the country, they are little more than stock in trade for the commissioners, the assignees, and the solicitor. Instead of solicitors attending to their duty as ministers of the Court, for they are so, commissions of bankruptcy are treated as matter of traffic; A. taking out the commission, B. and C. to be his commissioners. They are considered as stock in trade; and calculations are made, how many commissions can be brought into the partnership. Unless the Court holds a strong hand over bankruptcy, particularly as administered in the country, it is itself accessary to as great a nuisance as any known in the land, and known to pass under the forms of its law. The punishment of the solicitor, by striking him off the roll, is rendered merely nominal, by the common practice of others lending their names. It is too hastily taken for granted, that the solicitor is entitled to his bill. In one Court of Westminster Hall it was held, that if a solicitor undertakes to bring an action, or do any business,

and part of the undertaking is that he shall faithfully and honestly bring that business to a conclusion,—if he fails in that, he cannot bring an action for any thing.

"His Lordship added, that he was determined to make the officers of this Court responsible to the justice of the country for their dealings in this Court; and declared, with reference to the practice of lending a name to a person forbid by the Court to take out a commission, that he would not hesitate to strike a solicitor off the roll who dares to lend his name to a person under such an interdict, and for that reason alone: but he would go further, and, whenever a case of this nature should be brought forward, would direct the Attorney-General to prosecute for a conspiracy; for no worse conspiracy can be, than that, the object of which is to make what the Legislature intended as a lenient process against the bankrupt, a mode of defrauding the creditors and the bankrupt." *

The paper of petitions in bankruptcy, according to the report of Mr. Vesey, afforded ample foundation for Lord Eldon's strictures. In one of the cases, the whole value of the effects was but 80*l.* or 90*l.*, and the creditors who sued out the commission swore, first, that their debt was for goods sold, and afterwards, that it was for money lent. In another case, the circumstances were that the commission was a country one; that two of the assignees (one of whom was the solicitor taking it out) were partners in a country bank, in which one of the commissioners was also a partner, and into which the moneys received under the bankruptcy were paid, the third assignee being a customer of that bank: so that there was a union of the characters of banker, commissioner, solicitor, and assignee. For the prevention of these and other abuses, Lord Eldon forthwith laid down various rules, which were speedily attended with a salutary effect. It must be added, that the general Act of 6 Geo. 4. c. 16., which consolidated and arranged the whole series of prior enactments on bankruptcy, was settled by Lord Eldon, in concert with Mr. Eden, afterwards Lord Henley, who framed the original draft of that important measure. The fact is, that his general indisposition to what are called reforms, an indisposition which throughout his public life brought upon him, with much of unmerited obloquy, some reasonable censures also, was an objection chiefly against experimental changes in *established principles;* and he did not suffer it at all to withhold him from bruising the heads of extortion, fraud, or malpractice, wherever they had crawled in.

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* 6 Ves. Rep. pp. 1, 2.

The following letter to Mr., afterwards Sir Edward Sugden, now Lord Chancellor of Ireland, explains the feeling of Lord Eldon upon some important subjects of legal reform:—

"My dear Sir,

"The early rising of the Court has enabled me to read your letter to J. H., Esq.*; for presenting me with it be pleased to accept my best thanks.

"I have had very sincere satisfaction in reading it, it being my opinion that there is a most unreasonable avidity for alterations as to real property, industriously propagated, which would infallibly, if gratified, do great mischief. My opinion has long been, (perhaps a foolish one, but I cling to it,) that what should be attempted should go no further than (by legislative provisions, introduced into Parliament from time to time) the forms under which our present system as to real property is carried on should be rendered more simple and less expensive; that the system itself should not be changed, or, at least, should be touched with a very delicate hand. I think that even regulations, with this view, as to the forms, should not be attempted all at once: — I think such an attempt would fail. I brought in, when Chief Justice of Common Pleas, what is called Lord Eldon's Act, not because I thought *that* did enough — and I lately brought in a bill to improve that, not because I thought *that* enough — but, because a little that is reasonable may be effectually attempted, when, if you propose *all* that is reasonable, nothing would be done. I was the more led so to think, because I well remember that Mr. Kenyon and the lawyers of his day (and when had we better?) were preparing a bill for the improvement of the law, and, because all could not agree in every thing proposed, nothing was done.

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* Mr. Humphries.

" *I certainly did not foresee that to this period of my life I should be so overwhelmed with the execution of duties, that I could not find time to pursue, in proposing alterations of forms, what I meditated to propose.*

" Great alterations in our system of law, I confess, I do not think are likely to improve either our law or our lawyers. The history and progress of our legal system will be unknown by our lawyers, and they will, therefore, be ignorant. King William told Maynard that he was almost the only lawyer left. Maynard told him, that if he, said William, had not come, there would have been no law left. Indulge the appetite for alteration in the law, which we hear so much of now-a-days, and in a reign or two more we shall not have a lawyer — a well-grounded lawyer — left.

" Yours, my dear Sir,
" ELDON."

"Nov 1. 1826."

Engrossed, as Lord Eldon was, by business of every description, it seems rather to be matter of surprise that he should have been able to originate any thing of improvement and reform, than that he did not accomplish more. Nor was there any disposition, on the part of those who complained of the existing state and practice of the Courts, to afford to him, by any provision of additional assistance on the Bench, the intermission necessary for remodelling them. Two aids, indeed, he *did* obtain, as the flood of business continued to rise and rush in; but both of these—one of which was the erection of the first Vice-Chancellor's Court, and the other the arrangement for forwarding the appeals in the House of Lords, by a Deputy-Speaker—were grudged and resisted. The creation of a Vice-Chancellor was especially displeasing to Lord Eldon's opponents: they found it quite unreasonable that when the leak was gaining upon the ship, more hands should be called to work her. The very persons who had been loudest in their complaints of the magnitude and weight of the arrears, now treated them as a matter so light, that, with a little extra help from the Master of the Rolls, the Chancellor would, or should, be perfectly competent to clear them. What would those censors have said, if, with a view to the redress of the evil, the Chancellor had withdrawn his mornings from the motions and appeals, and devoted his time, which was all too little for the suits before him, to the invention of new constitutions for the practice of his Court? How many days, weeks, months, must such a study have abstracted from the time justly due to the suitors! How great would have been the consequent increase of the already burdensome arrear! and how inadequate an excuse for the neglect of urgent business would the concoction of speculative reforms have been deemed to afford!

Among the many devices, however, which were got up to work discontent in the public mind on the subject of Lord Eldon's judicial administration, and disseminated in the "Edinburgh Review" for October 1823, there was none more unjustifiable than the insinuation of a danger to liberty and property from some accroachment of discretionary, that is, arbitrary, power by the Lord Chancellor. The topic is indicated in the concluding sentence of the extract already given; and still more distinctly pointed at in the following extract from the same article, p. 247.:—

"Our readers are perfectly aware that it is to be collected from different parts of the work of the learned commentator (Blackstone), that the system (of the Chancery) *ostensibly* proceeds upon as *scrupulous and rigorous an adherence to precedent and authority as can be found in the courts of law themselves;* not to mention the important statutory provisions that form part and parcel of it. We know that these things are studiously *professed;* but we also know *of what materials professions are oftentimes made*, and to what purposes they are applied."

Mr. Williams,—*alter et idem?*—in his speech to the House of Commons, 31st May 1825, took the same tone, but without venturing a direct application of his remarks to the existing Chancellor.

"The jurisdiction," he said, "was founded *in the conscience* of the keepers of the Great Seal; of which, "as they had generally been priests or lawyers, he would "merely say that it was a sandy foundation, if ever there "was one, for a great paramount jurisdiction. As his own "opinion might have but little weight with the audience he "was addressing, he would venture to state to the House "what an eminent lawyer of former times had said upon this "subject. Selden, whose learning was as unbounded as his "attachment to the genuine principles of the constitution,— "Selden, in speaking of the origin of the Court of Chancery, "and its way of conducting business, made use of the follow-

"ing expressions: — 'Equity is a roguish thing; for law,
" 'we have a measure — know what to trust to; — equity is
" 'according to the conscience of him that is Chancellor, and,
" 'as that is larger, or narrower, so is equity. It is all one
" 'as if they should make the standard for the measure we
" 'call a foot, a Chancellor's foot; what an uncertain measure
" 'would this be! One Chancellor has a long foot, another
" 'a short foot, a third an indifferent foot: it is the same
" 'thing in the Chancellor's conscience.'"

From these intimations, it might be inferred by those unacquainted with Lord Eldon and with the Court over which he presided, that if he did not actually break the law to fit his own opinion of a particular case, he yet held himself at liberty to enlarge, contract, or bend it according to some personal discretion of his own: — whereas, on the very contrary, it was mainly because he never, severe as might be the pressure of the particular facts, would allow himself to be seduced into such a deviation, that he was led (in his anxiety to prevent any illegal relaxation on the one hand, and on the other any grievance not actually compelled by legal principle,) to keep particular cases under his consideration for a length of time, which drew upon him, and not unjustly, the censure of unreasonable delay in his judgments. He did not, as a Judge, consider himself authorized compulsorily to award, like a mere friendly referee, that which would be fair between both parties in the individual case: he felt that general rules are the only permanent protection of justice, and that to strain them, for the redress of some particular hardship, would be to let in for the future the still greater hardship of arbitrary judicature. It has been well said, that "hard cases make bad law;" and a reference to a few passages, not at all technical, in some of the judgments of Lord Eldon, will be sufficient to show how strongly he was impressed with that truth, and how strictly he acted on the conviction of it.

"It is more important," said he, in the great case of Jesson *v.* Wright, "to maintain the rules of law, than to provide against the hardships of particular cases." — 2 Bligh, 55.

In the case of Gee *v.* Pritchard, the question was, whether the defendant, who was about to publish some letters addressed to him by the plaintiff, should be restrained from such publication by the injunction of the Court. Now a plaintiff seeking an injunction against the publication of any writing must possess a property in it; and one of the points made for the defendant was, that these letters were not writings in which the plaintiff had a property. Lord Eldon, after stating that had the question arisen for the first time, he should have found it difficult to satisfy his mind about a letter-writer's property in the letter written by him, proceeds to say, —

> "But it is my duty to submit my judgment to the authority "of those who have gone before me; and it will not be easy "to remove the weight of the decisions of Lord Hardwicke "and Lord Apsley. The doctrines of this Court ought to be "as well settled, and made as uniform, almost, as those of the "common law, *laying down fixed principles,* but taking care "that they are to be applied according to the circumstances "of each case. *I cannot agree that the doctrines of this Court* "*are to be changed with every succeeding Judge.* Nothing "would inflict on me greater pain, in quitting this place, "than the recollection that I had done any thing to justify "the reproach that the equity of this Court varies *like the* "*Chancellor's foot.*" — 2 Swanst. 414.

In Davis *against* the Duke of Marlborough, a case involving a consideration of the equity, upon which relief is given against bargains made with heirs expectant, under circumstances which would not have invalidated such bargains if made with persons in actual possession, the Lord Chancellor said, —

"I am aware that, during my whole time, considerable "doubt has been entertained, whether that policy, with regard "to expectant heirs, ought to have been adopted; and although "Lord Thurlow repeatedly laid it down, that this Court does "shield heirs expectant, to the extent of declaring a bargain "oppressive, in their case, which would not be so in other "cases, and imposes an obligation on the parties dealing with "them to show that the bargain was fair, yet he seldom applied "that doctrine without complaining that he was deserting the "principle itself, because the parties dealing with the heir ex-"pectant insured themselves against that practice, and there-"fore the heir made a worse bargain; but he certainly, like "his predecessors, adhered to the doctrine, though not very "ancient. It is not the duty of a Judge in Equity to vary "rules, or to say that rules are not to be considered as fully "settled here as in a Court of Law." — 2 Swanst. 162, 163.

Speaking of a certain trust, in Attorney-General *v.* Forster, Lord Eldon said, —

"It struck me at first as a point of considerable doubt, whether the Court should execute such a trust. If it was unprejudiced by decision, *that doubt might be maintained by strong argument;* but *it is too late now even to state it:* for *there is authority binding my judgment entirely upon that.*" — 10 Vesey, 342.

Respecting a married woman's power over estates settled to her separate use, he used these words: —

"If it is asserted, that though Lord Thurlow, following his predecessors as far back as the doctrine can be traced, repeatedly decided upon this principle, this Court has now a right to refuse to follow it, I am not bold enough to act upon that position." — 11 Vesey, 221.

In Gordon and Marjoribanks, before the House of Lords, 6 Dow, 112., he expressed himself thus strongly against the notion of disregarding prior decision: —

" As to the observation made with respect to the case of " the Feoffees of Heriot's Hospital, that the judgment of this " House in that case was one to be *obeyed, not to be followed,* " I must take the liberty to say, that this would be a course " which, if pursued, would call for some attention. For, al- " though every Court may say, that, if a case varies in facts " and circumstances, it is at liberty to proceed upon these dif- " ferent circumstances, I do not recollect that it ever fell from " a Judge in this country, that he would obey the judgment of " this House in the particular case, but not follow it in others. " That is not a doctrine to which we are accustomed."

Lord Eldon did not allow even the probable intention of a devisor to overrule the general principles of legal construction.

" Judging," said he in Smart *v.* Prujean, " as a private " individual, there can be no doubt that when he (the tes- " tator) executed the will, he meant, that instrument and " these two letters should have their effect; but unless the " rule of law allows me, I cannot establish the letters." — 6 Ves. 566.; and see 10 Ves. 175.; 6 Ves. 397. 483.

Although the principle of a doctrine once settled might not be a very intelligible one, he still held himself bound to abide by it: as in Sheddon *v.* Goodrich, where, in reference to a question upon conditional legacies, he said, —

" After the doctrine has been so long settled (though with " Lord Kenyon I think the distinction such as the mind " cannot well fasten upon), it is better the law should be " certain, than that every Judge should speculate upon im- " provements in it." — 8 Ves. 497.; and see 8 Ves. 520.

Nay, although the doctrine were at some variance with principle, yet, if the decisions upon it were clear, he would not shake it: as in Davis *v.* Lord Strathmore, where he said, —

> " If this doctrine has been settled by decision, I shall be " no more inclined to disturb it than the decisions upon the " Registry Act; as it is much better to rest upon decision, " than to hazard, especially upon the subject of title, undoing " what has been settled, though perhaps not to be perfectly " reconciled to principle."—16 Ves. 429.

But if the decisions were not absolute, then it was to principle that he delighted to resort. And therefore, in the case of the Queensberry leases, he said, emphatically, in advising the House of Lords upon the judgment they should give, —

> " All law ought to stand upon principle; and *unless decision* has removed out of the way all argument and all principle, so as to make it impossible to apply them to the case " before you, you must find out what is *the principle* upon " which it must be decided."—1 Bligh, 486, 487.

Lord Eldon did not, however, hold that a Judge of one Court is bound by any opinion which, for his own assistance, he may have asked on the case before him from the Judges of other Courts.

> " It is stated," he observes, in Lansdowne *v.* Lansdowne, " that the Lord Chancellor of Ireland, after the return of the " certificate from the Common Pleas, retained an opinion " contrary to that certificate, but made the decree according " to it, from deference to the Judges of the Common Pleas. " In that, surely, there must be some mistake. For although " it is highly useful, in legal questions, to resort to the assistance of the Courts of Law, yet it must be well known to " those experienced in the practice of Courts of Equity, that " they are not bound to adopt the opinion of the Courts of " Law to which they send for advice. It has occurred to me

"to send the same case successively to the Courts of King's "Bench, and Common Pleas, and not to adopt the opinion "(though highly to be respected) of either of those Courts." — 2 Bligh, 86.; and see 1 Swanst. 320., and 1 Wils. Cha. Ca. 45.

It followed, from the respect paid by Lord Eldon both to principle, and to uncontradicted precedents which were *uniform*, that where he had *contradictory* decisions to deal with, he held himself entitled to disregard those of them which would not consist with principle. Thus he said on the great case of Jesson *v.* Wright, in the House of Lords, 2 Bligh, 50.,

"I cannot admit that *all* the cases cited have been well "decided. But it was hardly to be expected that Judges "should agree in the decision of all these cases; for the mind "is overpowered by their multitude, and the subtilty of the "distinctions between them. These difficulties make it the "more necessary that we should deliberate before we deter-"mine *this* case: the decision ought to accord with former "authorities, *if possible**; but, at all events, we must adhere "to the established rules of legal construction."

Lord Eldon indeed took a distinction in point of flexibility between the rules of *law* and the rules of *practice*. For, though he would not relax even a rule of mere practice simply from a motive of *feeling* †,

he said, in the case of the Princess of Wales *v.* Lord Liverpool, 1 Wils. Cha. Ca. 126., "There is no general rule, "I apprehend, with respect to the *practice* of this Court, that "will not yield when the clear and obvious demand of *justice* "requires." And he referred to his own decision in Beckford *v.* Wildman, 16 Ves. 438., as having settled that doctrine. See also Butler *v.* Bulkeley, 2 Swanst. 374.

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* That is, if reconcilable to former authority.

† Freeman v. Fairlie, 3 Merivale, 30.

The deep sense which Lord Eldon entertained of the obligation to follow settled decisions made him peculiarly careful, before he pronounced a judgment, to assure himself that any law he was called on to follow had been settled, and that any precedent he was called on to establish would be safe. Adverting to a question upon the necessity for repeated assignments of a term to attend the inheritance, he said, —

> " *If it is true* that the law of the Court was decided to be " such at the time by Lord Hardwicke, and has been since " understood to be so, that must prevail. *But it is necessary* " *to be perfectly satisfied*, that Lord Hardwicke *did* consider " the law as settled in that case; and that it has since been so " understood." Maundrell *v.* Maundrell, 10 Ves. 259. And see the case of Lord Dursley *v.* Berkeley, 6 Ves. 259.

Thus too, on the before-mentioned applications to restrain literary piracy of works objectionable in their character *, he declined to follow a practice of former judges which appeared to him to be at variance with principle, and was not settled by any positive decision.

Not only would he exercise no accustomed jurisdiction on any other than the established principles of law, but he would not assume a new jurisdiction, on mere grounds of moral justice, where he found not, in the previous decisions of Courts of Equity, some analogy to warrant him, or some principle already settled from which his decision would be a legitimate corollary. This was illustrated in Grierson *v.* Eyre, where the King's printer in Ireland was plaintiff, claiming, on the ground of certain resolutions of Parliament respecting the printing of statutes, an account from the King's printer in England for a proportion of profits derived from copies distributed by the defendant in Ireland. The Irish and the English printer, the former of whom had been appointed before the Union, appeared to have concurrent patents; and the Chancellor being therefore of opinion that there was no ratio for the apportionment of profit between them, decreed against the plaintiff, using these words: —

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* Above, pp. 420, 421.

"I cannot enter into the consideration of the *moral* right: he must have such a right as a Court of Equity takes notice of."

And, being further pressed on a subsequent day, he added, —

"That whatever natural equity there might be upon this subject, there was no such equity as this Court can administer." — 9 Ves. 347.

On the other hand, he was not disposed to *narrow* the authority of his office. Sitting in bankruptcy, in which the jurisdiction is that of the Great Seal and not of the Court of Chancery, and to which, therefore, the powers of the Chancery are not incident as such, Lord Eldon, when called on to direct the attendance of witnesses before Commissioners, made the order, saying, —

"It will turn out, I believe, that the Great Seal has exercised authority *analogous* to this; and if so, *I will not give up the authority*." — Exparte Lund, 6 Ves. 783.

Both the open and the anonymous accusations against Lord Eldon have now received a full, and it is hoped a satisfactory answer. The open accusations, which turned upon delay, seem, when fairly tried, to result in this: that the procrastination of particular judgments after hearing was justly chargeable upon him, though to nothing like the extent suggested by his political opponents; but that the general arrear of his Court was occasioned by no fault of his, and on the contrary, was met by him with greater exertions than had ever been made by any other Equity Judge. And the anonymous invectives, which disparaged his judicial powers, principles, attainments, and performances, (but which, even after they had been hazarded in the "Edinburgh Review," not one of the fierce and able lawyers who led the Opposition ever ventured in public to back or even to repeat, except upon the secondary point of style in composition,) will probably by this time be admitted to have been every one of them, with only that single exception, either groundless in its premises, or unreasonable in its conclusions.

I. 5.

It may now, perhaps, be gratifying to the reader to be furnished with some connected account of the views taken by Lord Eldon upon several important points of his judicial duty, which have never been made subjects of public attack or discussion.

The ancient maxim, that Christianity is a part of the law of England*, was held by Lord Eldon, (as it had before been by Lord Hardwicke†,) to be no less binding on the Courts of Equity than on those of Common Law. Thus, on the petition of certain elders of Jewish congregations, praying a declaration of the admissibility of Jews in common with Christians to the benefit of the Bedford Charity:—

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* As to which see Taylor's case, 1 Vent. 293., 3 Keb. 607. 621. Woolston's case.

† Da Costa *v.* De Paz, 2 Swanst. 490. in note.

Lord Eldon, in giving judgment against the petitioners, upon the construction of the charter and of the Acts of Parliament bearing upon it, which construction, he said, formed the simple question for his determination, observed that many arguments had been addressed to him from the Bar on the practice and principle of toleration; but, added he, "I apprehend that it is the duty of every judge, presiding "in an English Court of Justice, when he is told that there "is no difference between worshipping the Supreme Being in "chapel, church, or synagogue, to recollect that Christianity "is part of the law of England; that in giving con-"struction to the charter and the Acts of Parliament, he is "not to proceed on that principle further than just con-"struction requires; but, to the extent of just construction "of that charter and those Acts, he is not at liberty to forget "that Christianity is the law of the land."—Bedford Charity Case, 2 Swanst. 527, 528.—And see Attorney-General *v.* Pearson, 3 Mer. 399.

Where the making of the decree in Equity involved the necessity of a decision upon points of common law, Lord Eldon held it the duty of an Equity Judge to deal with them, if clear. In Underhill *v.* Horwood, 10 Ves. 220. he said, that

Upon a former case (Bromley *v.* Holland, 7 Ves. 3.) he had thought himself bound to decide the question upon the legal effect of certain instruments; but I did so, added he, "expressly declaring the reason, that I thought it within the "jurisdiction of a Court of Equity to decide the point of "law, though a Court of Equity ought to be very cautious "not to exercise that jurisdiction if the point is reasonably "doubtful."

There is a story of a young barrister, who, having the offer of a judicial situation in one of the Colonies, hesitated to accept it from diffidence in his own legal attainments, and consulted an old friend, an experienced Judge on the English Bench. "Oh," said that learned person, "I dare say your good sense will "carry you safely through,—only take care to avoid "giving reasons for your judgments; for though your "decisions will, probably, be right, your reasons for "them are not at all unlikely to be wrong." This policy, however convenient for a young gentleman advanced to a seat which he was not yet very competent to fill, is hardly suitable to the dignity of the supreme appellate jurisdiction; and it must therefore be matter of some surprise to readers unacquainted with legal usages, that, until our own time, it was the practice of the House of Lords to pronounce its judgments without a statement of the reasons. Such a practice Lord Eldon did not think it consistent with his duty to continue. In 2 Dow, 283. Wight *v.* Ritchie, his opinion upon this subject is thus reported:—

> "It was always useful to state the reasons which influenced the mind of the Judge in giving judgment. If pronounced by a Judge from whose decision there lay an appeal, counsel and the advisers of parties had an opportunity of weighing well the grounds of the decision; and when the matter came to the Court of last resort, where the principles were settled which must regulate the decisions of inferior tribunals, it was their duty to consider all the principles, to which facts, in all their varieties, might afterwards be applied."

And where a case was of first impression, he thought it necessary not only that the reasons should be given, but that they should be given fully. Thus, in Butcher *v.* Butcher, 1 Ves. & Bea. 96. he said,—

> "Upon a subject which has been so much the topic of discussion and decision, it would be a waste of time to trace the

doctrine, from beginning to end, through all the cases, *as has been my habit:* which I hope will produce at least this degree of service, *that I shall leave a collection of doctrine and authority that may prove useful.*" *

Lord Eldon had a great dislike to all those evasions of duty by which some Judges have sought to escape from responsibility, and get credit for dispatch. Speaking of a question, whether, after certain stages taken with the view of an ultimate appeal to the House of Lords, the Lord Chancellor, on a re-hearing in the Court of Chancery, ought to pronounce a merely formal affirmance of judgment, for the purpose of forwarding the case to that House, Lord Eldon said,—

> "I consider it contrary to the duty of a Court of Justice, under any circumstances, so to act. The suitors have a right to the deliberate attention and deliberate judgment of every Court, in every stage in which, according to the constitution, the cause may proceed; and there can be no circumstances under which I should ever permit myself to say, 'As the cause is to go elsewhere, I give no judgment but *pro formâ.*'"— Brown *v.* Higgs, 8 Ves. 566, 567.

In the following vindication of his own principles upon these subjects, which is extracted from his Anecdote Book, he has plainly had in view the very opposite practice of Vice-Chancellor Sir John Leach, who was apt to be somewhat ostentatious in his dispatch of business, as if to contrast his own celerity with the slowness of the Chancellor.

"There is nothing which a Judge may so easily acquire, as the character of a *quick* Judge, one noted for getting through business. In times subsequent to

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* And see Attorney-General *v.* Skinners' Company, 2 Russ. 437.

Bacon's, what he applies to a Judge in Chancery that he had heard of, might be applied to Judges that others had heard of. 'It makes me remember,' he says, 'what I heard one day of a Judge in Chancery, 'that he would make forty orders in a morning out 'of the way: and it was out of the way indeed, for 'it was nothing to the end of the business, and this 'is that which makes sixty, eighty, an hundred orders 'in a cause to and fro, begetting each other. But I 'mean not to purchase the praise of expeditive in 'that kind, but as one that have a feeling of my 'duty, and of the ease of others. My endeavour 'shall be to hear patiently, and to cast my order into 'such a mould, as may soonest bring the subject to 'the end of his journey.'

"References to Masters, sending cases to Common Law Courts, directing issues and actions, are also, where they are unnecessary, modes of 'dispatching business' in one sense of those words, and delay it in fact. The Judge gets the credit of expedition, and in fact is the cause of the most injurious delay. The Judge who avoids such references, gets the discredit of being dilatory, and in fact is expeditious. This discredit no man had more of than fell to my lot; for, as Lord Bacon recommended, 'I kept the keys 'of the Court myself, and did not refer to a Master 'any matter tending to discharge or dismiss the Court 'of the cause, but judged of it myself.' I did not make 'a communication of the authority of the Chan'cellor too far' by references. That is 'making too 'many Chancellors.'

"If this mode of expedition ever obtained in my time by the acts of other Judges in the Court, I believe it will be found, that if such a judge sent matter of law to a Master, and if, upon his Report made, that Judge differed in opinion with him, the Master's judgment was always used as a sanction for an appeal to the Chancellor: whereas the opinion of the Judge, if originally given without a reference to the Master, would have been acquiesced in; and I am afraid that it may be too truly said that, in my time, it was, in a considerable measure, owing to this circumstance, that there were so many of such appeals.

"Another circumstance which, in the question of expedition and delay, I fear affected my character injuriously, was what took place in Bankruptcy. It had been the constant and uniform practice, as I believe, in the administration of justice in Bankruptcy before the Chancellor, that he should himself decide matters of law, except in extraordinarily difficult cases, when he might call for the opinions of the Judges of a Common Law Court: and also decide upon questions of facts, notwithstanding contradictory affidavits, without requiring, (or at least without requiring, till, after very anxious consideration of conflicting affidavits, he could not satisfactorily decide without requiring,) the opinion of a jury in a verdict. It was represented that, in another Court of the Chancery, it had become matter almost of course, to send every case to a jury, where there was contradiction in testimony by affidavits. I adhered to the old course, because I thought it my duty so to do, and, though I once heard that I had approved the new course in some conversation, such was not the fact. What this difference of practice led to, appeared at first to the world to be this: that, in another Court, Bankrupt Petitions were disposed of in dozens, whilst the Chancellor was employed for hours and days, in hearing and deciding upon the contradictory facts and evidence on affidavits in some one petition, or two or three petitions at most. But, in a fair view of these matters, how stood they in the respective Courts? In the Chancellor's Court his decision, which was not subject to appeal, though he might himself re-hear it, was obtained at the expense of the petition alone, and was obtained upon a decision as to the matter alone of the petition. In the other way of proceeding, when the parties were sent to law, there was sometimes, but seldom, an appeal to the Chancellor, against that measure: for there are persons who have an interest in not adopting a measure which would (as in this sort of appeal would probably be the case, the Chancellor hardly ever sending the parties to law in Bankruptcy,) put an end to the matter, and to the profits of further litigation. Being ordered to try the question of fact at law, the trial is had — it was followed by a motion for a new trial; if that was granted, then came an appeal to the Chancellor against the grant of the new trial — if it was not granted, then there was an appeal against the refusal of it: and the Court had, in this stage, nearly as much trouble in examining what was the fair result of the evidence given upon the trial, as it would have had in sifting out the effect of the evidence originally given in the conflicting testimony in affidavits. Nay, more: for it would be the duty of the Court both to look into those affidavits, and the evidence given upon the trial, in order to form, according to what had been its rules, a decision satisfactory to conscience whether the matter should go to a new trial, or not: and in this new mode of proceeding, where the value of the matter in question might be a few shillings of dividend, the expenses of the contest about the right to that dividend might amount to the value of many, very many years' purchase of it. It was represented to me that the proceedings at law had amounted in some cases to several hundred pounds, where the thing in contest was much below one hundred pounds. The new way of proceeding certainly got more petitions out of the paper of petitions, than the old (apparently, but not really, dilatory) mode of proceeding: for though the petitions, in the new way of proceeding, were very rapidly got out of the paper of the day, nothing was decided, and they were only sent out of that paper, to return, and with a heavy expense to the parties, to the place from whence they came. The actual dispatch was there, where there seemed to be the delay."

Thus far Lord Eldon. — "I begin to think," said Sir Samuel Romilly, some time after the erection of the Vice-Chancellor's Court, "that the tardy justice of the Chancellor is better than the swift injustice of his deputy." Lord Brougham records* that certain wits used to call the Lord Chancellor's Court that of *oyer sans terminer*, and the Vice-Chancellor's that of *terminer sans oyer*. It once happened in the recollection of the compiler of this memoir, that all the causes ready for hearing in Sir John Leach's Court were cleared by him before the end of the term, and that three or four days were left, during which there appeared no business for him to do. Somebody asked how the judge was to fill up that time. "Why," said Sir George Rose, "let him have his causes set down again, and hear the other side!"

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* "Sketches of Statesmen," 2d series, p. 27.

The following conversation with Mrs. Forster illustrates Lord Eldon's careful guardianship in a class of cases, where the vigilance of the Judge is especially requisite for the protection of the suitor:—

"It is astonishing," said he, "how ladies come before one to give up settlements. It is a very amiable feeling in them, but they know no more what they are doing than the child unborn; it ought not to be allowed. I refused five, no fewer than five, ladies who came before me to express their willingness to give up their property to their husbands; very kind to them, very unkind to themselves. I told them they did not know what they were doing, it was impossible they could know; and I would not receive their consent."

He was ever anxious for the liberty of the subject. In Stanley Goddard's case, 1 Glyn & Jam. 53., which was an application to discharge a prisoner committed by warrant of Commissioners of Bankrupts, he said:—

"It is some consolation to me to reflect, that if I err in thinking that I cannot discharge the prisoner, he may have an opportunity of applying to-morrow to the Court of King's Bench or Common Pleas, and, in vacation, to each of the Judges individually.—The existing rule,"—(that the Judge in order to determine whether the bankrupt, committed for answering unsatisfactorily, be entitled to his discharge, shall consider whether the answers be sufficient to satisfy the mind of a reasonable person)—"must of necessity be the source of great pain in the mind of a Judge; for when he is about to determine that the answer is not satisfactory, and thus detain a man in prison, he cannot but reflect that to another mind, fully as well able to judge as his own, the answer may appear satisfactory.—I will not, however, decide finally to-day, but will take an opportunity of reconsidering the subject and applying my mind, undisturbed by other matters, to a concern of such serious importance as the liberty of the subject."—And see 1 Rose, 413.

His extraordinary stores of legal knowledge never induced in him a rash reliance on his own memory of the law. When any matter of difficulty occurred, he was accustomed to examine, out of court, the whole series of cases connected with the subject of it.* And if any decision which he had pronounced appeared to him, on subsequent consideration, to proceed upon mistaken grounds, which, however, was of very rare occurrence, he was quite as ready to correct his own error as if he were sitting in appeal from an inferior jurisdiction. Thus he said in Exparte Nolte, 2 Glyn and Jameson, 307, 308,

> "I feel bound to add, with respect to the case of Exparte Wylie, which has been so repeatedly appealed to during the argument, that as the first duty of a Judge is to endeavour, in the case before him, to decide rightly, and that his next is, if in any future case of the like kind he has reason to apprehend that his judgment was not upon such sound principles as it appeared to be when he pronounced it, that he should not hesitate to rectify his error;—looking at both these obligations, I feel myself bound to state that I must, when I decided that case, have seen it in a point of view in which, after most laborious consideration, I cannot see it now."

It was not, in Lord Eldon's opinion, sufficient that a Judge's decree should be actually right: he held it important, also, that the parties on both sides should, if possible, be satisfied of its being so. Thus, in the appeal of Lord Rancliffe against Lady Parkyns, 6 Dow, 210., he says, in delivering the judgment of the House of Lords:—

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* See 6 Ves. 263.; 14 Ves. 203.; 15 Ves. 583.; 1 Ves. & B. 59.; 1 Rose, 253.; 1 Glyn & J. 384.; 2 Swanst. 36.; 2 Bligh, P. C. 102. &c. &c.

> "I have two objects in view; 1st, to satisfy both parties, if possible, and with the more anxiety, as this (the judgment appealed *from*) is a judgment of my own; 2d, that when disputes arise between persons so nearly connected, these may be set at rest, or, if not, that they may know that as much industry as possible has been bestowed upon the subject."

With a view to give this satisfaction, it was his habit to recommend compromise, rather than the rigorous justice to which even a Court of Equity is sometimes driven when parties insist on a formal decree. Thus, in the case of the Attorney-General against Fowler, where an Injunction was sought by ten of twelve lessees of a dissenters' chapel against the other two,—after pointing out the disadvantage which all parties must risk if the Court were compelled to interfere, he finishes by declaring his wish—

> "To impress upon those parties the weighty consideration, whether it is not better to compose their temporal differences, which cannot subsist without great hazard to their religious concerns: and to endeavour at least to settle their disputes without calling upon this Court to interpose its jurisdiction."—15 Ves. 90.

The preceding quotations convey the opinions of Lord Eldon upon many general points of judicial duty. It remains to add the evidence of his candour towards other Judges, and of his scrupulous and laborious anxiety to fulfil his own obligations.

First, as to other Judges. In the cause of Lord

Dursley *v.* Fitzhardinge Berkeley, 6 Ves. 260., he says :—

> " The case of an heir apparent was very properly put by Lord C. J. De Grey, in his most luminous judgment. Upon that occasion he said, he never liked Equity so well as when it was like Law. The day before, I heard Lord Mansfield say, he never liked Law so well as when it was like Equity: remarkable sayings of those two great men, which made a strong impression on my memory."

Questioning the accuracy of a report of a judgmen delivered by Lord Northington, he said, (6 Ves. 640.) :—

> " It is difficult to believe Lord Northington said what is reported. He was a great lawyer, and very firm in delivering his opinion; and if he dissented from Rose *v.* Bartlett, I rather think he would in a firm and manly way have denied that case to be law."

On an occasion in which Lord C. J. Eyre was quoted at the Bar as having given two contradictory decisions, Lord Eldon said (1 Jac. 369, 370.) :—

> " His name has great authority with me, particularly on questions relating to tithes. His judgments were very elaborate, and generally in writing; and when the energy of mind which he applied to them is considered, I am surprised that it could be supposed that he had contradicted himself, and decided differently in the two cases. I think that, upon an attentive perusal, they will be found to be reconcileable."

Of Lord Hale, asserting the power of the Court of Chancery to issue the Writ of Habeas Corpus,—Lord Eldon says, in Crowley's case, 2 Swanst. 56 :—

> " His opinion is very material (regard being had to the time in which he lived, and the different offices which he filled). He was appointed Judge in 1653, became Chief Baron in 1660, Chief Justice of the King's Bench in 1671, resigned that office in February 1675-1676, and died in

> December 1676. In weighing the opinion of Lord Hale, it becomes us to recollect his eminence as a lawyer, and the stations he adorned, and that he lived at a period in which he must have been very conversant with the notions of the different Courts of Westminster Hall on this writ; at a period when he must have known what was the construction to be put upon the statute of Car. 1., and what were the defects of the law before the statute passed in the reign of Car. 2."

Having occasion to mention Chief Justice Wilmot he speaks of him as "a great lawyer."—Crowley's case, 2 Swans. 62. With reference to Mr. Justice Buller, a most eminent Common Law Judge, he says, (6 Ves. 333.):—

> "Speaking with all the veneration and respect due to so great a judicial character, the point in which it seems to have failed is, that he thought too confidently that he understood all the doctrine of a Court of Equity."

He characterises Lord Alvanley thus:—

> "A very experienced Judge in Equity: with reference to whom I may say, his judgments will be read and valued, as producing great information and instruction to those who may practise in Courts of Equity in future times."—15 Ves. 347.

The most eminent of his predecessors was undoubtedly Lord Hardwicke: and if rivalry for fame could have engendered jealousy in Lord Eldon, Lord Hardwicke would have been the Judge whom he would have been most unwilling to exalt. But Lord Eldon had no such littleness. In one case he says, (6 Ves. 812.):—

> "He (Lord Hardwicke) was one of the greatest lawyers who ever sat in Westminster Hall."

Again, 6 Ves. 126.:—

> "There is the authority of Lord Hardwicke upon the point,

which would weigh down the most considerable doubt that I could be disposed to entertain."

On another occasion, in stating a point of jurisdiction, he said, (1 Wils. Ch. Ca. 124.):—

"I state *that*, as the opinion of that great man (for such he was both as a common lawyer and as a Judge in Equity) Lord Hardwicke." *

Nor was he at all slower to do justice to the merits of a contemporary. He spoke of Lord Redesdale (1 Dow, 348.) as a Judge—

"who had presided in the Irish Court of Chancery with so much credit to himself and advantage to his country, and who, in addition to his knowledge of Equity, was as good a common lawyer as any in the kingdom."

And in another case, 9 Ves. 54., he characterises Lord Redesdale's book, "Mitford on Pleadings in Chancery," as "a wonderful effort."

So with reference to Sir William Grant, who, except the Lord Chancellor himself, was the greatest Equity Judge of the time, Lord Eldon said in James *v.* Dean, 11 Ves. 391.—

"I feel a strong inclination of opinion upon this question; but I shall not hold any opinion of my own without doubt when the Master of the Rolls has held directly the contrary."

And again in Mills *v.* Farmer, 1 Meriv. 94.—

"I feel that [redacted] judge, my own decision will not hereafter possess all the authority which might otherwise attach to it."

But he did not allow his courtesy or candour to restrain him from censuring any practice in other judges, whether prior to or contemporary with himself, which he thought prejudicial to the great interests of justice. In the case of Gordon *v.* Marjoribanks, 6 Dow, 111., which was an appeal to the House of Lords from the Scotch Court of Session, he said, with reference to the speech of Lord Mansfield in 1772, on the appeal of Deas against the Magistrates of Edinburgh,

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* And see 2 Rose, 166.

> "I thought it my duty, in the case of the Feoffees of Heriot's Hospital, speaking of the case of Deas (in which this House proceeded, on the advice of a noble person, of whom I again say, that, as long as the law of Scotland or of England exists, his name will be pronounced with respect and veneration, a noble person, who for some time exclusively managed the business in Scotch causes here, which I do not think a happy condition of this House); in that case, I thought it my duty to say that, with which, if said in his presence, he would not have been offended; always speaking with the respect and deference due to so great and exalted a character, that, although his intention was not to alarm, I was so infirm, that if I had been one of the corporation of Edinburgh, I *should* have been alarmed. And your Lordships will pardon me if I take the liberty again to say, that his speech is addressed a great deal too much to the taste and honour of parties, instead of dwelling upon their contracts and following the steps of that correct judicial path, within which a judge is by his duty confined."—6 Dow, 111, 112: and see 2 Dow, 307. 311.

So in Woolley *v.* Maidment, 6 Dow, 276., he observed, that

> "As it was the duty of the House of Lords in deciding Scotch cases, to guard against the influence of English impressions, so it was the duty of the Lords of Session, in deciding questions of English law, to recollect and resist their natural bias of Scotch Judges to Scotch doctrines. This," said he, is "an English case (though an appeal to the House of Lords from the Scotch Court of Session): and when we look at the notes which we have of the observations and comments of the Judges, if we ought, in the administration of

Scotch law, to recollect that we are English judges, I venture very respectfully to hint to them, that, when they are dealing with questions of English law, they should recollect that they are Scotch judges."

To Lord Eldon's retentive memory of law, Lord Thurlow's fame is much indebted. It is chiefly in Lord Eldon's judicial reminiscences of that great lawyer, that he is seen to his due advantage. His reported judgments are for the most part very imperfectly executed, and Lord Eldon may be said to have been in person the main depository of the law of Lord Thurlow's age.

Ready as he was to do ample justice to the merits of all other Judges, he was singularly modest as to his own. It has already been observed with what deference he treated the judgment of Sir William Grant when his own was opposed to it, 11 Ves. 391. and 1 Meriv. 94. So, when the Judges to whom he had occasion to refer were of the same opinion with himself, as in Leigh *v.* Leigh, where he had been assisted by Mr. Justice Lawrence and Mr. Baron Thompson: —

"It is unnecessary," said Lord Eldon, "for me to attempt, what would be of no use to the Bar, to repeat, in terms not so apt to express them, the grounds upon which my own opinion is formed. I shall be conte[illegible]wledge my obligation to the learned Judg[illegible]ate that the advice which I[illegible]ved confirms the opinion I had upon first reading this [illegible] and which, throughout the argument, has never varied." — See also 2 Bligh, 543. 690. — and indeed all the reports of his judgments, passim.

Of his own ease he was but little regardful. In the great bankruptcy of Castell and Powell, in which the Commission was brought to him into the country to be sealed, it became requisite, in consequence of an error which he found in that document, to prepare a new Commission. Accordingly a new Commission, in due form, was prepared: and, as the necessary steps for obtaining possession of the bankrupt's property on behalf of the creditors, so as to exclude an extent by the Crown, could not be taken till this Commission had been sealed, it was a great object to get the sealing without delay. The instrument arrived at Encombe in the middle of the night: and the Chancellor got up to seal it, 14 Ves. 87, 88. In cases of difficulty, he would himself draft the reference to the Master, 16 Ves. 13., or the minutes of the order or decree, 17 Ves. 293.

He was little, if at all, influenced, in the distribution of his patronage, by political considerations. The solicitations of the Royal Family were his chief embarrassment. In particular, those of Queen Charlotte, the consort of King George III., were so frequent, as to entrench materially on his power of serving his private friends. Still there were few, at all entitled to his gratitude or affection, on whom, or on whose families, he did not find means, in his five and twenty years of power, to bestow some favour at least equal to their claims: and in many other instances, where no such claim existed, he allowed himself the pleasure of indulging a kindly feeling toward worthy persons, who had no interest with him but that of their necessities. He was careful, however, to avoid committing himself by promises. The letter which follows is a specimen of his cautious but courteous answers to applications for Church preferment: —

"Sir,

"I have had the honour to receive your letter respecting the living of ———. I trust that you will not impute it to disrespect, that I do not express at present any intention as to the disposal of it, except in saying that no person can more strongly feel the necessity of placing, in these times, most exemplary clergymen in the Crown's benefices. I have never allowed myself to express an intention by whom I should fill up any living not actually vacant—the tenure, by which I hold office, and the inconvenience of acting upon any other rule than that of forbearing to intimate any purpose with respect to benefices not vacant, appearing to me to be such, as to justify my refraining from so doing. Lord Sidmouth, in consequence of your letter to him, spoke to me upon the subject, and I think, when you may happen to see him, he will explain to you the reasons of this conduct, and I trust it will not appear inconsistent with the respect, with which I am, Sir,

"Your obedient Servant,

"ELDON."

It has been said, and perhaps truly, that, in his distribution of Church livings, he gave too little to eminent ability and learning; yet, in the list of those who were indebted to him for such preferment, are found, among other distinguished names, those of Maurice, the author of the "Indian Antiquities,"—of Benson, now Master of the Temple,—and of Phillpotts, now Bishop of Exeter.

His Commissionerships of Bankrupts, much solicited for barristers of great family interest, were often refused to such candidates, in order that they might be bestowed upon those working lawyers who had contributed to the knowledge of the Bankrupt law, by their useful publications respecting it.

His higher appointments in the legal profession, those of Judges and Masters in Chancery, have, with very few exceptions, been fully approved both by the Bar and by the public. He was much alive to his responsibility in these judicial appointments. It has already been seen how far he carried his resistance to George IV., on the subject of the Mastership in Chancery for Mr. Jekyll: and with respect to the selection of the Common Law Judges, he was quite inflexible. "On one occasion," said he to Mr. Farrer, "of a vacancy on the Bench by the death of one of the Puisne Judges, the Prime Minister of that day took upon himself to recommend a certain gentleman to the King, as a very fit person to fill that vacancy: —and finding there was a disposition in the King to take that recommendation, I very respectfully urged, that it was on the responsibility of the Lord Chancellor that these Judges were appointed, and that I should not consider myself worthy of holding the Great Seal, if I permitted the advice of any other man to be taken,—at the same time tendering my resignation. The Minister gave way, and the gentleman I recommended was appointed."

Lord Eldon has been accused of jealously impeding or discountenancing the advancement of rival Judges to the peerage. There seems to be no ground for such a charge. Of the two Chancellors for Ireland, appointed in Lord Eldon's time, each was ennobled upon that appointment. Of the Equity Judges in England under Lord Eldon's administration of the Court, only one, Sir William Grant, could have been considered as having any claim to the peerage; and he does not seem to have desired it. In the office of Chief Justice of the King's Bench, there occurred during Lord Eldon's chancellorship only one vacancy; and it will have been perceived, from a letter of his to Lord Kenyon, dated 14th Nov. 1818, that Sir C. Abbott, who succeeded to that office, did not think it expedient, with the moderate fortune he had then realised, to accept a title of nobility. It had not been the prevailing usage to confer it upon the chiefs of the Common Pleas, and still less of the Exchequer, except when there were special claims, and fortune adequate to the rank. And yet, in Lord Eldon's time, such a patent was given to the Chief Justice of the Common Pleas, Sir Robert Gifford, afterwards Master of the Rolls; and if any blame at all can attach to Lord Eldon with respect to this peerage, which, as already shown, originated altogether with Lord Liverpool, it is not the blame of having discouraged, but rather of having forborne to discourage it.

It has even been imputed to Lord Eldon, that from professional jealousy, he was careful to admit into the law offices of the Crown those men only whose mediocrity insured the supremacy of his own reputation. The inventors and distributors of this imputation are probably not aware, that Lord Lyndhurst was appointed Solicitor-General under Lord Eldon.

Akin to these charges is another, more often, and perhaps more fairly urged, that he was too parsimonious of promotion at the Bar. In the case of Mr. Brougham, it has already been shown that the delay was not with the Chancellor; but Mr. Scarlett and other eminent men, among whom even his friend Mr. Wetherell was not made an exception, complained with good ground that their advancement was unreasonably deferred. His postponements were probably the result of that "cunctative" habit which he acknowledged in himself, and of the difficulty which he found, to decide, among a great body of candidates, *whom* he might fitly select with least damage or offence to those whom he might exclude. To some, no doubt, the delay was extremely injurious; because when a Chancery Barrister has arrived at such a point of eminence that he is confidently considered to be on the point of obtaining the rank and precedence of a silk gown, which removes him from his junior practice, those solicitors, his clients, who have pleadings to be drawn, are apt, from an apprehension that he may not continue his services through the suit in his junior capacity, to lay their papers before other Counsel less advanced; and thus he loses his old ground, without being allowed to plant his foot upon the new. Perhaps, however, even the delay itself was hardly so mischievous as the consequence which followed, not necessarily indeed, but yet very naturally from it—that when, at last, the Chancellor *did* make up his mind to create what is called "a batch of silk gowns," he found himself obliged, from the intermediate accumulation of claims, to constitute so many, that a few more or less appeared hardly a matter of moment. Among the numerous candidates thus poured in, but a few were able to secure even business enough for a fair trial; and the Inner Bar was swamped by an influx which, if the stream had been more gradual, might possibly have been absorbed. The fashion of making King's Counsel in great batches has indeed been productive of serious evil, in all ways. It has transferred that which ought to be the patronage of the Crown to the hands of the Solicitors, and, through the competition of numbers within the Bar, has tended to divest the leading Counsel of that control which they ought always to have power as well as disposition to exercise over the tempers and appetites of keen practitioners. It has lowered the value and character of professional honours by the wide distribution of them. And by forcing a premature emulation for rank, it has given a false stimulus to much ability and learning, which would have worked more safely and more usefully to the community, if left to a less sudden development. On several of these brevets, it would probably have been better even for the candidates themselves (to say nothing of the general credit of the Bar), that only one in three or four of them should have been singled out on almost any principle not involving actual injustice, than that so many should have been condemned to obtain their requests. They have but helped to illustrate the position of Juvenal,

—— nocitura *togâ*, nocitura petuntur
Militiâ.

The Bar was considered by Lord Eldon to have partaken the advance which all other classes of society have made during the present century: and his demeanour toward them corresponded with this favourable opinion. Speaking, on one occasion, of Lord Chancellor Hardwicke, 10 Ves. 342., Lord Eldon said:—

"He was undoubtedly a very great lawyer; with reference to his knowledge, both of Common Law and Equity, perhaps much more eminent than the counsel of that day, great as they were, are in comparison with those of the present time; for it has frequently struck me, that the discussion at the Bar at that period was by no means equal to that of the present time."

In fact, the increase of competition produced by the spread of education, has in this, as in all other pursuits, from school and college forward, induced a higher bidding for the prizes of life than was sufficient when the rivals in each walk were less numerous and consequently less anxious and less industrious. In the last century, a little law and a grave aspect would go a great way at the Bar: but in later times, unless where there has existed a powerful connection among solicitors to force its possessor into practice, men have seldom owed their prosperity to any thing short of the severest toil. In the state which the profession has now reached, the only resource of unaided men, resolved upon success, is to compel a preference, by paying as the consideration for it an amount of labour to which the spirit or the strength of their competitors is unequal. After a while, the arguments of such men begin to attract notice for the superior reflection and diligence betokened in them; until, although by slow degrees and after many disappointments, they obtain, in the higher descriptions of business, a lead and command which mere connection can never bestow, and which re-acts by example to elevate the general habit of the Bar, its tone, and its reputation.

That kindness to Counsel, of which Mr. Farrer's letter of 9th March 1824 contains so pleasing an acknowledgment, was made the subject of a public eulogium in the House of Commons, from Mr. Brougham, who observed *,

> "That in the amiability of his habits, and in his courteous manner in all public business, Lord Eldon far surpassed every other judge, from the highest to the lowest, that he had ever seen."

In his earlier years, he had not been without some little of the irritability of juvenile eagerness natural to a profession in which competition is so active. "I remember," said he, "the case of Deering *v.* the Earl of Winchilsea. I argued it, and very angry I was with the decision; but I lived long enough to find out that one may be very angry and very wrong." (Buck, 556.)

Mr. Farrer gives an instance of Lord Eldon's good nature as evinced to old Mr. Hall, a learned and uncouth Barrister, who had great practice in Chancery some five and thirty years ago. "One day, in Lincoln's Inn, he was making the speech of a 'laudator temporis acti,' and wound up with a querulous sort of peroration—'But *now*, my Lord, I find that I know no law.' 'Mr. Hall,' said Lord Eldon, 'if you now know no law, I can say of my own knowledge that you have forgot a great deal since I sat in those rows in which you now sit.' Old Hall's broad face," says Mr. Farrer, "spread wider and wider, and his eyes became full of morning dew: and, attempting to say something in reply, he abruptly sat down without being able to finish the sentence."

"When I was very young at the bar," adds Mr. Farrer, "a junior Barrister applied to the Lord

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* 7th June 1825.

Chancellor to put off some case, on the ground that he was going the Circuit.—'Is any gentleman with you?' said Lord Eldon. 'Mr. —— is my leader.' —'We shall be very sorry to lose your assistance,' rejoined Lord Eldon, 'but we will do the best we can in your absence.'"

Perhaps Lord Eldon's courtesy was owing, not more to the gentleness of his temper, than to the vigour of his capacity. Inferior Judges, conscious of weakness, have but too often fallen into a habit of leaning upon some eminent leader, whom they have found it safer to indulge than to contradict; and the result has been not only very disadvantageous to the younger practitioners, who may have happened to be opposed to the favourite, but very injurious to the interests of justice, which are obviously quite as much damaged in any cause by a Judge's partiality to one of the counsel, as to one of the parties. But Lord Eldon was too secure in his own strength to slide into this vice. The junior, who had that morning put on his gown for the first time, was sure of an equal hearing with the Romilly or the Sugden of the time. Lord Eldon considered what, not whose, the argument might be. Thus, observes the Law Magazine*,—

> "By the great majority of the Bar, notwithstanding his niggardly distribution of honours, though he even kept back some eminent and deserving lawyers from the rank of King's Counsel, to which their standing entitled them, Lord Eldon is held in affectionate remembrance, for that mixture of suavity and firmness—the mild and kindly spirit, yet dignified

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* No. XLII.

address, of which Lord Chesterfield inculcated the diligent study, but which he had by nature.

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> "Upon those unhappy persons, the afflicted in mind, body, or estate, who sometimes broke through the trammels of Chancery etiquette to make their grievances known in person, his singular kindness of manner acted with the force of a spell. However irregular the application, or however unbecomingly pertinacious the applicant, Lord Eldon listened with most patient attention, until the object was discovered, and then advised with gentleness, or softened refusal by complacency."

Sir Watkin Lewes, an aged Alderman of London, who in his youth had been at the Bar, appeared in the Chancellor's Court to conduct a cause of his own, and took a very erroneous view of the law as applicable to it. "I am afraid, Sir Watkin," said Lord Eldon, "that either you or I must have forgotten the law of our early days."—"Your Lordship may," said the old citizen; "I have not." The Chancellor took the answer in good part, and allowed the veteran to finish in peace.

Mr. Plowden, the Irish historian, addressing him once from the Bar, in a state of great excitement, permitted himself to utter some expression implying that Lord Eldon was acting partially. "Perhaps," said Sir Samuel Romilly, when it came to his turn to speak, "it may be difficult wholly to gainsay that imputation; for if justice had been administered in strictness, the learned Counsel would by this time be half way down to the Fleet." In the instance of Mr. Plowden, there were extenuating circumstances of a personal nature, for which Lord Eldon made compassionate allowance. But with all his forbearance, says the Law Magazine*,—

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* No. XLII.

"He kept his Court in perfect subjection. We recollect a case, which had stood so long in the paper that every one had forgotten its circumstances. When the Chancellor had finished giving judgment, 'I know I was in this case,' said Mr. Heald; 'but whether judgment is for me or against me, I have not at this distance of time the most remote conception.' 'I have a glimmering notion that it is for me,' answered Mr. Horne. Their chief instantly stopped further discussion, by desiring, in a tone of grave rebuke, that counsel would not make him the subject of their observations. They yielded at once to a demeanour which softened the roughness of Bell*, and subdued the despotic and domineering temper of Romilly. Though meeting the solicitors of his Court almost as equals in his private room, Lord Eldon would give a check to any undue familiarities. He had been chatting familiarly with an attorney. 'You never gave me a brief, Mr. L——, how was that?' 'Yes, I did,' said the gentleman sturdily. 'Nay, nay, I am satisfied of the contrary,' rejoined the Chancellor, 'my recollection on such a point must be the better of the two.' But when he proceeded to express an opinion adverse to the attorney's case, and the latter exclaimed with too much bluntness, 'Your Lordship is decidedly wrong; I will have your decision reversed in the Lords.' 'Perhaps, Mr. L——,' said the Chancellor, rising, 'you had better take that chair, and pronounce judgment there.'"

The following passage is from the life of Mr. Wilberforce†:—

"One of the most remarkable things about Romilly was, that though he had such an immense quantity of business, he always seemed an idle man. If you had not known who and what he was, you would have said, 'he is a remarkably gentlemanlike pleasant man: I suppose, poor fellow, he has no business;' for he would stand at the bar of the House and chat with you, and talk over the last novel, with which he was as well acquainted as if he had nothing else to think about. Once indeed I remember coming to speak with him in court, and seeing him look fagged, and with an immense pile of papers before him. This was at a time when Lord Eldon had been reproached for having left business undischarged, and had declared that he would get through all arrears by sitting on until the business was done. As I went up to Romilly, old Eldon saw me, and beckoned to me with as much cheerfulness and gaiety as possible. When I was alone with Romilly, and asked him how he was, he answered, 'I am worn to death; here have we been, sitting on in the vacation, from nine in the morning until four, and when we leave this place I have to read through all my papers to be ready for to-morrow morning; but the most extraordinary part of all is, that Eldon, who has not only mine, but all the other business to go through, is just as cheerful and untired as ever.'"

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* Bell's roughness was only in his voice and provincial dialect. He was always respectful to the Court, and always kind to his brethren at the bar.

† Vol. v. p. 341.

From these various details of the judicial faculties, habits, principles, and practice of Lord Chancellor Eldon, the reader will have been enabled to draw his own conclusions. Those political opponents of this eminent man, who ventured to attack him openly, were never unwise enough—whatever course may have been taken by anonymous assailants—to damage their personal credit, by denying or depreciating his great qualifications. They exaggerated his habits of delay, and they charged upon him the blame of grievances with which he had no connection; but they never ventured to impeach his vast ability or his deep learning, any more than his high integrity. A fair specimen of the many testimonials thus afforded, will be found in the speech made on the 5th of June 1823, by Mr. Abercromby, who was then a practising Counsel of the Court of Chancery, as well as a leading member of the Whig opposition. He expresses his belief that—

> no man could be more conscientiously inclined to give a correct judgment, than Lord Eldon: and declared himself willing to admit that the noble and learned lord was an individual gifted with the most extraordinary acuteness of intellect—that he possessed a most profound knowledge of law—that he enjoyed a most astonishing memory—and that he was endowed with a surprisingly correct and discriminating judgment.

Such acknowledgments (and they are frequent in the debates from 1823 to 1827) take away from his defenders all necessity, nay almost all excuse, for indulging in the details of panegyric. He can have no more complete and satisfactory voucher, than the reluctant candour of his adversaries.

But it is not alone upon contemporary testimonials that his judicial fame will rest. The usefulness of a judge does not cease with his employment: his judgments survive to succeeding times, as lights and landmarks; and with them his reputation endures. By such remains the lawyers of future days will form their estimate of Lord Chancellor Eldon. They will feel and acknowledge his power, not merely in the quantity and variety of his labours, but in their quality and value:—in the learning with which his judgments are imbued—in the patience wherewith the collateral and incidental considerations (which, however material to the suit, so often deter or mislead inferior Judges by their perplexity) are all, in his hands, proportioned to their just importance in the case, and brought to bear upon the general result:—nay, further, in the practical illustration which he has left for the guidance of future Chancellors, and the good of future suitors, that the Judge who combines the most profound knowledge of the law with the most perspicacious apprehension of the facts, may afford to exercise the most anxious caution in disposing of the rights and fortunes of mankind. These are the moral, and strong, and sure grounds, on which the judicial fame of Lord Eldon will stand with the generations that are to come: on *these* his monument is founded, and by *these* his memory will live.

II.

His private life was, for the most part, amiable as well as just. The foregoing pages have shown him, as he lived, an affectionate and dutiful son, a true and tender husband, a kind and liberal father, and a cordial and grateful friend. He sometimes gave way to momentary impetuosity; but he was habitually indulgent to, and proportionally beloved by, all around him: and the only occasions in which he manifested any long-enduring displeasure, were when obedience or attention was withheld from him by persons from whom he considered himself entitled to such observances. Such a feeling evinced itself rather indefensibly with respect to the two ladies of his family who contravened his wishes in their marriage. In the case of his son's widow, he had neither right nor reason to object at all: and in that of his own daughter, though his title to interpose may have been stronger than in the other instance, the degree and duration of his estrangement were excessive, and especially unsuitable in him who had himself been party to a like offence. But, with the exception of these instances, and of something like fractiousness toward the period of his final decay, there is nothing to be found in his private history which could give a pretext for censure.

He has, indeed, been accused of a narrow and unbecoming economy; and it is true that his style of living was deficient in the splendour and hospitality which are expected from the Lord Chancellor of England. But the defect was not in Lord Eldon himself. His lady, in the early days of their union, when their very scanty means made it necessary to observe a rigid parsimony, had acquired close and retired habits, which were not expanded by the progress of their fortunes. She had a distaste for visiting, and for most kinds of amusement; her sole pleasures were those of her home. Her devotion to her husband continued unabated in advancing years; and his boundless indulgence to her left all her peculiarities unchecked. The wicked wits of the law used to satirize their housekeeping; and even the stern Romilly had his jest, which he put into a professional form. At a time when there was great complaint of delay in the Chancellor's Court, Sir Thomas Plumer, the Master of the Rolls, gave a series of dinners. "Very right," said Romilly; "he is clearing away the Chancellor's arrears."—This close principle of administration, however, had no place beyond the affairs of the household. The management of Lord Eldon's estates, both in Durham and in Dorsetshire, was regulated by himself, and conducted on an ample and liberal scale with reference to the tenantry and to the poor; and his domestic arrangements, too, from the period of his lady's death, were such as befitted his great fortune and high station.

At all seasons of his life, after he had once attained a competence, his private bounties were large and frequent. The applications to him for pecuniary assistance were, as always happens to eminent men, a great deal more numerous than it was reasonable, or indeed possible, that he should grant. "I have received letters from strangers," says he, in his Anecdote Book, "asking relief upon every possible ground. One man, from a prison, candidly stated that he had behaved so excessively ill, that nobody, who knew him, and none of his relations, would assist him; and therefore he hoped that I would."—When the case was one which he considered as raising no claim upon his benevolence, he would answer decidedly, but very kindly. The following is one of his letters of refusal:—

"SIR,

"It is painful to return an unfavourable answer to your last letter. I cannot, however, consistently with what are my duties to many, many other persons, who have very strong claims upon me, and more than I can satisfy as I ought, lead you to expect that I can comply with what I understand is proposed by your letter.

"I am, Sir, your obedient Servant,

"ELDON."

The late Mr. Pensam, who was for many years his Secretary of Bankrupts, often acted as his almoner. The following is the general account which that gentleman gave of his deceased patron's unostentatious and substantial charity, in a paper written for the information of the present Earl.

"The Earl of Eldon contributed *by donation*, to many of the *eleemosynary and other public* institutions, —*not to the annual* collections. His *private* donations were of considerable amount—in some instances, often and long repeated to the same object —particularly to the decayed of the legal profession and clergy; but not, to my knowledge, in any case placing himself at the head of a list of subscriptions, or permitting his name to be entered in any such, or ever inquiring what others contributed. He expressed his unwillingness to be the guide to, or to influence others; nor was he regulated or influenced by what others did. Neither in these transactions, nor in any of the acts of his life, did he seek publicity, show, popularity, or ostentation. In more than forty years' means of observation, it never occurred, that the consideration of expense was, in a single instance, suffered to impede the attainment of any object, or the adoption of any measure, that could be reasonably deemed useful in the probable results."

Liberality, as he himself had occasion, in the construction of a will, judicially to declare*, may evince itself in more ways than those commonly called charitable. Mr. Pensam relates, in a letter to the present Earl, that independently of private benevolence, and donations to public institutions, and exclusively of the contribution of 2500*l.* per annum to the Vice-Chancellor's salary, under the statute introduced with his concurrence for the constitution of such an officer, there were sums voluntarily given or remitted by Lord Eldon out of his judicial income, *on official and public accounts*, amounting in the course of his

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* Morice *v.* Bishop of Durham, 10 Ves. 541, 2, 3.

Chancellorship, to nearly 30,000*l.*[*] One branch of them is related by Mr. Pensam to have originated thus: "The emoluments of the persons employed in the Bankrupt Office consisted partly of fees, authorised, before Lord Eldon's time, to be taken by them when called upon to transact business on any of the holidays which had been usually, till that time, kept at the Bank and other public offices, and immemorially at the Bankrupt Office. Lord Eldon ordered, in the first place, that no holiday should be kept, except Christmas Day and Good Friday, and the former hours of business daily be extended; and strictly that no gratuities or perquisites of any kind, or on any account, for accommodation, or otherwise, should be taken or accepted. But as it might be considered reasonable that the former salaries of the persons so employed should be increased to such an amount as to be sufficient remuneration for their respective situations and services and the degree of trust with which they were to be severally charged, his Lordship directed that such salaries should be fixed, and increased to the most liberal amount that could be suggested as consistent with propriety, and *at his expense;* and as a fund for that purpose, he directed a portion of those fees to be applied, which, for as long a period as could be traced, had been accounted for to former Chancellors, and considered a material part of their official emoluments."

An anecdote is current of his having purchased the library of an eminent lawyer then in difficulties, and returned it entire as a present to the owner; but this particular example was denied by Mr. Pensam.

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[*] See letter of March 13th, 1832.

Mr. Belt, a gentleman of the Chancery Bar, happened to mention, in Lord Eldon's hearing, that he had prepared, with great labour, some Notes on the Reports of the Elder Vesey. — "You should publish them," said the Chancellor. "My Lord," replied Mr. Belt, "I have offered them to the booksellers; but they will not take the risk of the printing, and I cannot afford it myself." "The Notes ought not to be lost," rejoined Lord Eldon: "let me know what the printing would cost." On learning the probable expense, which was estimated at 200*l.*, Lord Eldon sent Mr. Belt a check for that amount. The work was successful; and when it had repaid its expenses, Mr. Belt came to Lord Eldon, and proposed to repay him the 200*l.* "No, no! Mr. Belt," said the Chancellor: "I wish to have the pleasure of making your work a present to the profession." *

Another instance of Lord Eldon's liberality was related in the Times of the 18th of Jan. 1838, within a week after his death. One day, while he was Chancellor, he took a hackney coach to convey him from some place where he had been transacting business, to his own residence; and, having a pressing appointment, he alighted hastily from the vehicle, leaving papers of value behind him. Some hours after, the driver discovered the packages, and took them to Hamilton Place; when his Lordship desired to see the coachman, and, after a short interview, told him to call again. The man called a few days afterwards, and was then informed that he was no longer a servant, but the owner of a hackney coach, — which his Lordship had, in the mean time, given directions should be purchased and presented to him, together with three horses, as a reward for his honour and promptitude in restoring the papers.

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* See an example of his munificence to an old attorney, Vol. II. p. 312.

Lord Eldon's conversation, though it could not well be called brilliant, was pleasant and gay. "It "was usual," says Lord Brougham *, "to observe "that, except Sir William Scott, no man was "so agreeable as Lord Eldon." Not that he set himself forth for the making of jokes, after the manner of "diners out:" but he had a flowing vein of sly good humour, which seasoned his whole talk. About the time when he became Chief Justice of the Common Pleas, he was rallying Sir William Scott,—"As to you, William," said Lord Eldon, "you are an old-fashioned fellow, and must not compare yourself with me." "And what makes you so much more of a modern than I am?" said Sir William. "Why, my birth, to be sure!" replied Lord Eldon: "You came into the world in forty-five, but I not till fifty-one: so I am a man of this half century—whereas you are a man of the last."

He did not dislike a play upon words. The present Earl gives these, among other instances: "Walking with him one day at Encombe, I observed to him that many of the fine old ash trees 'grew double,' meaning where two trunks came from one root. 'Yes,' he replied, 'we all grow double as we grow old.' I remember that once while Lord Eldon was suffering from the gout in both feet, where though painful

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* Second Series of Historical Sketches of Statesmen (1839), p. 72.

it is not dangerous, he said he did not mind it when there, or when coming up as far as his knee, provided it were '*ne* plus ultra.'"

He was dextrous in a jocular avoidance of any question which it was not convenient for him to answer. "When he was Chancellor," says Mr. Farrer, "it was a question in the Court of King's Bench, whether grouse was a bird of warren. Lord Eldon, whilst we, the Masters, were in attendance in the House of Lords, came to us, and entered into conversation. Being much interested in this question, I said to Lord Eldon, 'Do you *know*, my Lord, whether grouse is a bird of warren?' He looked a look of good-humoured rebuke, for questioning him in so off-hand a manner upon a point then under judicial consideration and upon which he might have to give judgment on appeal, and replied, 'I *know* grouse is an excellent bird on the table.'"

But his great forte lay in telling a story; which he did in a rich low tone, with a demure smile, a quiet gleam of his eye, and a seductive humour that no gravity could resist. The greater part of his anecdotes are in the book which has been so often cited, and of which the contents have almost all been given in these pages; but then there is hardly a story here set down, which does not lose much for want of his manner of telling it. One, which the Anecdote Book does not contain, was related by him to the writer of this memoir, as follows:—

When Lord Chancellor Talbot died, which was in the February of 1736–7, Sir Robert Walpole offered the Great Seal to Lord Hardwicke, then Lord Chief Justice of the King's Bench, who hesitated a long time about accepting it. Walpole, at last, out of patience, wrote to him on a certain morning, that, if he did not accept the seal before eight that evening, it would be given to Fazakerley.* This brought Lord Hardwicke in a hurry to Walpole. "Really, Sir Robert," said he, in a remonstrating tone, "you should allow me a little time in such an affair: and at any rate, why Fazakerley? Of all men, surely Fazakerley should be most out of the question—a person unfit on so many accounts—and besides, you know, a Tory and a Jacobite!"— "Never mind that," said Walpole, pulling out his watch and laying it on the table, (which action Lord Eldon followed as he came to this part of the story) "it is now exactly noon: if you do not let me know that you have closed with my offer before eight this evening, I can only tell you, that, by twelve, Fazakerley will be as good a Whig as any man in His Majesty's dominions." Lord Hardwicke accepted the office.

To fashion or refinement Lord Eldon made no pretence, though his right understanding and kind nature preserved him from any solecism in good taste. His disposition was festive, but not luxurious. He liked plain port: the stronger the better. One of his favourite dishes was liver and bacon: and when he dined with George the Fourth, it was one of the entrées.

Accomplishments he had none. His Oxford education, though it had made him sufficiently a scholar, had not given him a literary turn. He continued to cherish an affection for the old associations of the University, and a respect for the classical lore he had acquired there; but he had no great relish for poetry or other *literæ humaniores*, and did not, for their sakes, withdraw much of his time from the engrossing pursuits of law and politics. He is said* to have, on one occasion, "rather astonished his court, by declaring that he had in the course of the last long vacation, "inter solicitæ jucunda oblivia vitæ," read the "Paradise Lost" from beginning to end.

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* An eminent counsel of that day.

Few excesses of appetite or of passion deranged the long and equable tenour of Lord Eldon's life. The high noon of power did not elate his temperament, nor the shadow of declining years depress it. He had been wont to say of Lord Thurlow, "What a giant that man would have been but for his temper:" and he was careful that his own should not betray him into violence or indecorum, whether in the worry of business and politics, or under the provocation of the many personal libels that were aimed at him. His only serious slip seems to have been in Mr. Abercromby's case, of which, however, a good deal more was made than it deserved. With this one exception, his utmost outbreaks were little more than occasional private expressions of annoyance at the reiterated attacks made in Parliament and in the Press, upon his judicial character. He indicated, however, in his old age, a tendency toward an over sensitive or jealous feeling, which gave him now and then the appearance of suspecting the affection of some of his family, particularly if there appeared to be any deficiency in their attentions; but this dissatisfaction was not so much evidenced by him in express words or by any act of unkindness, as indicated by a cloud, overcasting for a moment the general cordiality and cheerfulness of his manner. Nor was his graciousness reserved only for his family, friends, and favourites: it was with him an habitual benevolence, extending to all who came in contact with him. There was no fawning upon royal and noble persons, nor ostentation of condescension to private men: he talked as frankly and as courteously with a tenant, a clerk, a servant, a stranger, according to their respective relations to him, as with a prince of the blood: preserving always a demeanour, which was free alike from affectation and from assumption, and in which natural dignity was tempered with unfailing good humour.

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* Law Magazine, XLI.

Of all his endeavours, public and private, the spring and guide was religion, which he cherished not as an engine of state, but as the rule of life and the earnest of immortality. His was the memorable apophthegm, that the union of the State with the Church was not to make the Church political, but to make the State religious. It is true, perhaps, that he was not sufficiently attentive to external observances; indeed for many months in each year, during the pressure of official business, his devotions were almost wholly private. It may be some apology that he had begun life at a time when the duty of public worship was not so generally regarded as it is now; but it is said that "Sir Samuel Romilly, who attended the parish church at which the Chancellor ought to have been, used to comment, with no slight severity, on never seeing him there."* On an occasion when his merits were in discussion among some lawyers, one of them, a warm partisan of the Chancellor, called him one of the pillars of the Church. "No," said another; "he may be one of its buttresses; but certainly not one of its pillars, for he is never found *within* it." At Encombe, however, where he had some intermission from the harassing demands which usurped his time in London, he was a regular attendant on public worship; and when Kingston Church, (a chapel of ease to that of Corfe Castle, the parish in which Encombe is situate,) had fallen into decay, he rebuilt it at his own cost. Mr. A. Bell says Lord Eldon one day expressed a wish that he had never during his life employed himself in any business on a Sunday; and within two years before his death, conversing with Mr. Farrer on the obligation of attending public worship, he said, "If you wish to know my deliberate opinion on that subject, I will tell you that I think it is every man's bounden duty." He added, "It was too much the custom to neglect it when I was a young man—it was found very convenient, and no doubt it is so now, to have the Sunday to work up arrears of business, and to prepare for the work of the coming week: so church was neglected. We used to think that the pressure of business justified us, and a great deal may be said, at least, has been said, on that head." But, however he may, at different seasons, have been remiss in the celebrations of the Church,—and although there may have been moments of his life, when, lapsing amid the whirl of ambition and politics into greater or lesser transgressions, he exemplified that the possession of more than the common strength of our nature is not an exemption from its weaknesses,—yet, habitually and practically, the influences of religion were present, and operative, and paramount within him,—whether amid the perplexities of law, the struggles of power, or the sorrows of domestic bereavement,—alike in his health and in his sickness, in his youth and in his age. With him religion was matter of feeling, as well as of conviction: it was the stock on which his virtues grew: his standard in action, and his refuge in suffering.

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* Law Magazine, XLIV., p. 356.

III.

It remains only to consider him in his political relations: and here it is probable that much difference of opinion will long continue to subsist.

The leading principle of his political life was attachment to the establishments of the country, especially in the Church. He opposed the Dissenters and the Roman Catholics, not because he looked at them through any jaundice of theological dislike, but simply because he believed that the Church Establishment would be undermined by their admission to the functions of the State. He endeavoured to restrain the eagerness with which the advocates of the Negroes, in 1804 and in 1806, were pressing the abolition of the Slave Trade, not because he was friendly to tyranny or oppression, but because he doubted the efficacy of the measure even for its own objects, and held it unjust precipitately to unsettle the great masses of property which had been invested on the faith of the then existing law.

In his own judicature, as already has been observed, he introduced reforms himself, and sanctioned reforms introduced by others; but the changes thus made were few, and would probably have been yet fewer, but that, on legal matters, his thorough practical knowledge counteracted his usual apprehension of unknown consequences. To changes in other departments he was, for the most part, adverse; but if a statute on any subject became necessary, he always desired to have it so well considered, that it might be enacted for the whole period during which it was deemed likely to be necessary, and not passed as a mere temporary act*, to be renewed in another Session as carelessly as it had perhaps been originated in the first. He was more especially indisposed to hazardous disturbances of any of the laws respecting crime or property. Humane as he was, and ever anxious in each individual case to temper justice with the utmost measure of mercy consistent with the opinions and feelings which regulated society in his day, he contended strenuously against any sweeping reform of the criminal law: and when, at length, he admitted some modification of it, he made the concession not to speculative reformers, but to Mr. Peel, who was then the Minister regularly presiding over the department of legal administration, and who had digested the whole subject both comprehensively and practically. Against the sudden growth too of those joint-stock companies, which, at one time, were overspreading and blistering the country, he strongly set his face; watching and preventing the enactment of private bills, in these as in many other instances where attempts were made to break in upon the general law by partial exceptions. He was careful, likewise, in checking divorce bills, which he believed, and as it should seem upon very sufficient data, to be founded too often on verdicts assessing the damages to the husband by collusion with the defendant, upon judgment by default. In short, there was hardly any innovation which could be attended with danger (and some danger is involved in almost every innovation), which was not regarded with jealousy by the Chancellor, whose ascendant in the House of Lords made his veto almost absolute during a period of five-and-twenty years. In the earlier part of that time, his over-cautious aversion from change, excluding, as it necessarily did, some real improvements, brought upon him a good deal of obloquy, in the shape both of invective and of ridicule; and in his case, as in that of Mr. Perceval, unwillingness to hazard what might be evil was set down as incapacity to discern what was good. But Lord Eldon was happier than his colleague in this, that whereas Mr. Perceval died before the age was ripe for doing justice to his views, Lord Eldon lived to enjoy the reputation of his conservative principles, and to become the favourite and the guide of that great body* of the English people, who still, to use the beautiful language of Southey, "walk in the "ways of their fathers, and hold fast to that Church "for which Laud and his King suffered on the "scaffold, and the noble army of our earlier martyrs "at the stake." After his struggles against the Roman Catholic Relief Bill, and against the Reform Bill, this popularity was at its height. The people's

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* See Parl. Deb. March 5th, 1804, — July 8th, 1814, — &c.

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* Law Magazine, No. XLIV.

"Gratitude and affection were conveyed to their faithful "champion in every variety of form, overflowing in addresses "of approbation from almost every quarter, several of them "accompanied with costly presents. But the testimonials of "which the old Peer spoke in the highest glee, were of a "simple nature—the cheese from the dairy of 'some gude "wife,' in Cheshire, or the snuff-box from the hand of some "poor mechanic, who hailed him as the defender of the Church "he revered but deemed in danger." *

There have not been wanting politicians to insinuate that all this adhesion to venerable institutions in Church and State was mere hypocrisy in their skilful defender. Lord Brougham's vindication of him from this charge is complete, according to its kind:—

"With all these apparent discrepancies between Lord Eldon's outward and inward man, nothing could be more incorrect than to represent him as tainted with hypocrisy, in the ordinary sense of the word. He had imbibed, from his youth, and in the orthodox bowers which Isis waters, the dogmas of the Tory creed in all their purity and rigour. By these dogmas he abided through his whole life, with a steadfastness, and even to a sacrifice of power, which sets at defiance all attempts to question their perfect sincerity. Such as he was when he left Oxford, such he continued above sixty years after, to the close of his long and prosperous life;—the enemy of all reform, the champion of the throne and the altar, and confounding every abuse that surrounded the one, or grew up within the precincts of the other, with the institutions themselves; alike the determined enemy of all, who would either invade the institution or extirpate the abuse." †

His firmness was not the least important point of his character. He had exhibited it early in life, when he took his stand upon the question of his precedence at the bar; and if it sometimes appeared, notwithstanding his habitual gentleness, to partake of per-

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* Law Magazine, No. XLIV.

† Statesmen of George III., Second Series, p. 61.

tinacity or prejudice, it was certainly among the principal of those qualities which rooted him so deeply in public confidence.

His political ascendency was, in some respects, yet more remarkable than his supremacy in the law. The prizes of political life have in general been won by some or other of the arts or forces of parliamentary warfare, particularly as waged in the House of Commons—by nervous declamation, by argumentative vehemence, by formidable sarcasm, by graceful style. Of none of these was Lord Eldon a master; yet all and more than all the influence, usually earned by them for their possessors, became his without their aid, and even without his own original purpose. For his early plans of life were wholly professional. He entered Parliament unpledged to any political party: and when he decided to join Mr. Pitt, and even when he successively undertook the offices of Attorney and Solicitor General, it was with a view to no ultimate distinctions but those of the law. The unusual responsibilities, which, by the events then passing in Europe, were cast upon the law officers of his time, obliged him indeed to address himself to divers matters of state; but, on arriving at the Chief Justiceship of the Common Pleas, he gladly quitted the sphere of politics, and only returned to it when called by George III. to enter the Cabinet as Chancellor, under circumstances of somewhat peculiar and personal relation to the King. From that time, of course, he was mixed in the chief affairs of government; and he then made it early evident, that if he wanted some of the popular talents by which political distinction is commonly attained, he was strong in all the higher qualities by which it is best preserved. These qualities,

—prudence, knowledge, temper, consistency, firmness, and above all, judgment,—made ample compensation for his deficiency in imagination and in the forces and graces of style. Perhaps it is hardly a paradox to say, that in the stations he was eventually called to fulfil, his want of imagination was one of his advantages; for the Judgment, the highest of the intellectual powers, and in public affairs worth all the rest, was thus left to exercise, undivided and undisturbed, its empire in his mind and its influence in the councils of his Sovereign. Being however well aware, that the scanty intervals left from legal duty make it impracticable for a Chancellor to engage with advantage in the miscellaneous business of a Ministry, he endeavoured, except upon urgent occasions and great questions of public policy, to confine his political province, as nearly as he could, to matters connected with law or its administration; though he was sometimes obliged to employ himself in the consideration of more general questions, when the Government called upon him as their expounder or defender in the House of Lords. To that assembly, rather than to the more boisterous ranks of the House of Commons, his talents and tone were adapted. Making no pretension to oratory of any sort, he spoke in the House of Lords, as he did on the judgment seat and as in earlier life he had done at the bar, with fluency, with ease to himself, and generally with satisfaction to those of his hearers who, regardless of language and popular effect, sought only what his speeches were sure to contain, strong sense and accurate learning. His language, no doubt, was inconveniently parenthetical; and, sometimes, from his over anxious caution to "guard his meaning," the path of his argument became so choked with qualifications, that an almost painful attention was necessary to track its windings. The same defect has already been acknowledged to exist in some of his most accurately reported judgments. It is more or less prevalent too in his correspondence; and it detracted most materially, with the majority of auditors, from the admiration due to the reach of mind and store of knowledge which his parliamentary speeches disclosed. The House of Lords, however, regarded but little these deficiencies of style, in a person otherwise so eminently gifted, and so peculiarly fitted for all the higher functions of his station. What they desiderated, and what in him they found and recognised, was a man whom, throughout all the varieties of their business, whether judicial or legislative, they could look up to and rely upon as their guide—profound in principles, accurate in forms, always accessible, universally courteous, a trusted leader of their political majorities, and a meet representative of their aggregate dignity.

Such were the qualities, habits, and primary characteristics of him who held, for a longer time than any of his predecessors, the highest civil office in these kingdoms, and during a quarter of a century exercised an influence almost unprecedented in the Cabinets of successive Sovereigns.

Nor has his reputation anything to fear even from the final and often dangerous test, of *events*. During all but about fourteen months of the most momentous period in the whole of this country's foreign annals,—that of her struggle with Bonaparte,—Lord Eldon was one of her Ministers; and from the return of the Tories to power in 1807,—Mr. Pitt being then no more, — the most potential voice in the Cabinet was probably Lord Eldon's. Many a time, in that tedious course of years, the hearts of the multitude failed them, and weariness and despondency yawned for present peace, however unstable and brief. But the Cabinet saw farther, and stood firmer. As Mr. Pitt had thought, so thought Lord Eldon and his colleagues (and here the Chancellor had the full support of Mr. Canning, so long as the latter continued in the Councils of the war), that peace would then only be expedient when it should be safe and durable: and that it was easier to continue the nation's efforts, than it would be to resume them once abandoned. With this conviction, they resolutely braved the unpopularity of occasional disappointments and reverses, and the still greater odium of unremitted, nay increasing, taxation, rather than yield to weak though violent clamours, or compromise that great object of security, for which, from the first, Great Britain had combated. Their constancy attained its reward. They saved and enlarged those main sources of prosperity, naval, commercial, and colonial, which it had been the engrossing passion of their terrible enemy to annihilate:—they hunted him from the seas: —they profited by his frenzy, and by the reaction of outraged Europe, to dislodge him from his continental usurpations:—until finally, by the prowess of the greatest man who ever combined a warrior's with a statesman's genius, they accomplished the utter extinction of the aggressor, and the permanent pacification of their country.

APPENDIX.

The only speeches of Lord Eldon which were published under his own supervision were that of Nov. 2nd, 1820, upon the evidence in Queen Caroline's case, and that of 17th April 1821, upon the Catholic question. Of the former, those portions which retain any interest have already been given, in Chap. XLII. The latter is noticed in Chap. XLIII., but without any summary of or extracts from it, the reader being merely referred to the present Appendix. The principal passages are now subjoined at their full length, from Hatchard's original edition, 1821, in Lord Eldon's own words, as furnishing at once an authentic record of his opinions on this great subject, and an accurate specimen of his parliamentary style.

The earlier pages of Hatchard's publication are in the third person and past tense, which form is occasionally resumed in subsequent parts of it.

He began by apologising "for taking so early an opportunity of expressing his sentiments." (He spoke fourth in the debate, the preceding speakers being the Bishop of St. David's, the Duke of York, and the Earl of Darnley.) "He trusted that he might stand in some measure excused for an early and prompt interposition against the measure, which, whilst it seemed to impose upon a Lord Chancellor, who under the bill might be the only lay-servant of the Crown in Great Britain necessarily a Protestant, the peculiar duty of watching over Protestant interests, appeared to him necessarily and obviously to bring all those interests into extreme peril.

"He observed that the Noble Lord who spoke last had declared his conviction that this measure, or one of the same character, must sooner or later be carried. It might be so; but he should, nevertheless, feel it to be his duty, as attached to civil liberty and to religious liberty (best protected by the Protestant establishment in this country, connecting its Church establishment with an enlightened and liberal toleration), to oppose the introduction and progress of every such measure as the present, through evil report and good report, as long as opposition to it could be offered. If the majority of the House should at any time finally determine that his opinions had been founded in error, he should at least enjoy the satisfaction which would result from a conviction that he had not willingly erred, and that he had most anxiously endeavoured to avoid error.

"If it could be supposed that this bill, if the House went into a Committee, could be reported upon without very material variation, destroying in a great measure, if he might so express himself, its identity, the Roman Catholic would know what he had to hope for, and the Protestant what he had to dread. But, in his judgment, any bill or measure which could come out of a committee, must be altogether different from that which the House, if it read *this* bill a second time, would propose to commit; and therefore the further proceeding on this bill appeared to him as objectionable as former motions, always rejected by this House, were, when, without the introduction of bills, the House was moved to form committees to consider generally what measures might be introduced, — motions which, if adopted, would probably have raised expectations in the minds of the Roman Catholics which could not be gratified, and have created alarms in the minds of the Protestants, which the Legislature ought not to excite.

Adverting to that argument for the measure which had been founded on the authority of great names, particularly Mr. Pitt's, Lord Eldon observed that Mr. Pitt had always admitted the necessity of securities; but that no man appeared ever to have learnt from Mr. Pitt *what* securities they were which that great statesman would have approved: and "no man had yet found out what securities he could propose on the part of the Protestants, which the Roman Catholics would give as the price of what they were to receive.

"And what was the state of matters now? That the House had before it a bill, proposing concessions almost unlimited; but with securities, the only securities, he presumed, which the wisdom of those who have introduced this bill could, after meditation for twenty years, suggest, quite inefficacious, if enacted; which the Roman Catholics will not only withhold, but which they deem it matter of gross insult to have had it proposed to them to give."

Lord Eldon then gave a general abstract of that part of the bill which removed, with a few exceptions, all the disqualifications of the Roman Catholics. With respect to such parts of the bill, as applied "to what was to be required of persons exercising ecclesiastical functions, professing the Roman Catholic religion, and to what was to be enacted as to bulls, dispensations, or other instruments coming from the See of Rome," he observed that "little had been said in debate.

"Whether the Roman Catholics did or did not object to them, much of objection to them most reasonably might be urged; but that probably the whole of this part of the bill had been found so unpalateable to the Roman Catholics, that little had been stated in debate respecting them — little but general expressions — or that they might be altered in the Committee — with no very slight intimation that, at last, we might safely act as to the Protestant interests — without any securities at all to be given by the Roman Catholics."

He was ready to admit that the securities ought not to be required if the concessions could be made without danger; but he did not think that they would be so made. It had been too generally assumed as a "wandering out of the line of our duty to consider those measures in what was called the religious view of them.

"He had always felt that it was one of his first duties to maintain the established religion of the country. Fortunately for the country, it had adopted the purest system of Christian faith in its established religion; by connecting with the laws, which established its Church, laws securing a liberal and enlightened toleration, as to those, who dissented from its Church, it had probably placed, upon the best and surest foundations, the civil and religious liberties of all who lived in the kingdom. But they were told that all this was wrong; and that they should allow every body of Christians to take its chance in the world. He was of a different opinion. He should ever assert that an established religion was a great benefit to a people — that the object of such an establishment was not to make the Church political, but to make the State religious. Such was his firm persuasion — a persuasion so strongly entertained, that he would much rather see a less pure system of Christian faith established, with a liberal and enlightened toleration of those, who differed from it, under which toleration we, who adhere to the doctrines of our present established Church, might enjoy shelter and security without power, political power, than to see this country without any established Church. Such must also have been the sentiments of all those great men who had concurred in establishing and in repeatedly refusing to shake the provisions of the Corporation and Test Acts, which, according to Blackstone, 'secure both our civil 'and religious liberties:' among the latter of whom were to be numbered Mr. Pitt and others, who had at different times meditated and proposed the repeal of the laws respecting Roman Catholics.

"It appears at first sight unaccountable how it should have happened that those, who had brought forward the present measure, a measure, which they had announced 'as putting an end to all jealousies, as uniting and knitting 'together the hearts of *all* his Majesty's subjects in one and the same interest,' had not bestowed the benefit of one single enactment upon their Protestant dissenting brethren. When the Constitution was settled at the time of the Revolution — a settlement now about to be shaken — the Church Establishment was secured — the Toleration Act passed at the same time in favour of those Protestants, who could not adhere to that Church Establishment — the members of both were thought to have contributed to the overthrow of Popery and tyranny.

"The present measure relieves the Roman Catholics from disabilities, from which it aims not, in any manner or degree, to relieve our Protestant brethren. Can this be right? Can the Legislature think of doing this? No — nor can it be so intended. You agree to this Bill. Those, who bring it before you for adoption, well know — cannot but know that you must repeal — that you cannot refuse to repeal the Corporation and Test Acts of England. They know this — it behoves the House not to forget it, for the sake of the Established Church. If it is fitting and just to communicate to the Roman Catholics, in the measure and extent proposed by this Bill, 'the benefits and advantages 'of the constitution and government happily established in this kingdom,' according to the preamble, it must be equally fitting and just with respect to our Protestant brethren.

"It should not, however, be forgotten, that our constitution and government, as established, is a constitution and government, which does not consider political power, as one of 'the benefits and advantages' to which all subjects are equally entitled.

"As it is fashionable in this House, to refer to Blackstone as an author, their Lordships might, in his works, find the grounds and principles, upon which the distinction, as to the grant of political power, or the withholding political power, rests; and the grounds upon which, however friendly that writer was to the relaxation or abolition of the penal laws against Roman Catholics in given events, he holds that 'whilst they acknowledge a foreign power 'superior to the sovereignty of this kingdom, they cannot complain if the 'laws of the kingdom will not extend to them what it has done for Protestant dissenters, or complain if the laws of the kingdom will not acknowledge them upon the footing of good subjects.' A doctrine equally held by Selden, Locke, Clarendon, Somers, and others of the greatest name in our history.

"It is said, however, that they do not now acknowledge such a foreign power, or, at least, if they have heretofore acknowledged such a power, they will utterly, or, as far as reason can require of them, disavow all jurisdiction now, that is foreign, if they, according to this proposed Act, take the oaths of allegiance and abjuration, and the oath specified in the proposed Act. And we are told that the Protestant succession to the Crown, and the Church of England and Ireland, and the Church of Scotland, are already, by the Acts mentioned by this Bill, *permanently* and *inviolably* secured: — an acknowledgment this that they *ought* to be so secured; that they are by the effect of these Acts permanently and inviolably established and secured, if the means and provisions adopted by these Acts are continued in force, *permanently* and *inviolably*, may be granted. — But, if the means and provisions, ordained by these Acts, are destroyed by your proposed legislation, and nothing is to remain of these Acts but declarations that your constitution in Church and State is Protestant, you have nothing better than what has been called a paper or parchment constitution.

"To ascertain the effect of what we are doing, it is necessary to see what we are undoing, and to trace, therefore, in some measure through our history, what the supremacy of the Crown, and the allegiance of the subject, mean.

"With respect to the oath of allegiance, this Bill proposes no modification of it. There are many statutes respecting the oath of allegiance: but the common law not only recognises what is called virtual or implied allegiance but also expressed allegiance — that is, allegiance expressed by oath — the common-law oath of fidelity and allegiance. — Allegiance is undivided allegiance. The common law and the statute law look to undivided allegiance. The supremacy of the Crown is an indivisible supremacy; the allegiance due to the Crown is an indivisible allegiance. Passing over that long and eventful period of our history previous to the Reformation, in which the Crown and its subjects were so often involved in contests with the Pope and the See of Rome, often working the degradation of the Crown and kingdom by abject submission, sometimes asserting in those struggles the honour of both, and exhibiting a display of the most ardent love of liberty; — it is from the commencement of the Reformation down to the present time that we must look more especially to the course of events, and the nature of our laws, with reference to the present rights, liberties, and duties of the Crown, and the subjects, in matters civil, ecclesiastical, and spiritual.

"It is therefore unnecessary to trouble the House with the history of all that passed in this kingdom from about the time of Edward the Third, and before, to the period of the Reformation, respecting Papal provisions of benefices, the purchasing of benefices, the appeals to Rome, pensions, Peterpence, dispensations, bills, rescripts, &c., and other Papal usurpations.

"The supremacy of the Crown had been most solemnly asserted and re-asserted by Henry VIII. and Edward VI. The Acts passed in the reigns of those sovereigns it would be worthy of those, whom he addressed, accurately to acquaint themselves with.

"Not that those Acts were the foundations of the Crown's supremacy in ecclesiastical matters, or of this doctrine of the Church of England respecting it: they asserted a supremacy inherent in the Crown according to the constitution — they did not create it; and he was mistaken if we had not an Ecclesia Anglicana, with the King its supreme head, before the Pope of Rome could be said to have endeavoured to obtain any footing in this Island.

" To determine what was the supremacy which the Pope did claim in this country it may be important to see what was the supremacy which was claimed for and on behalf of the Pope. He wished their Lordships to read the statute of the 1st Philip and Mary, cap. 8. Few had read it:—but a more humiliating, a more degrading, a more debasing national record, he believed, did not exist in the annals of the world. No man who would read it could fail to feel alive, and tremble lest we should ever again open a door for the entrance of that lion which had nearly devoured us. Observe, there, how many Acts of Parliament touching temporal rights are repealed, as contrary to the Pope's supremacy acting *in ordine ad spiritualia;* and then let it be determined by the old rules of construction of statutes, by looking at others *in pari materiâ*—by the *contemporanea expositio;*—by seeing what was the mischief contemplated, and the remedy proposed—what was claimed by the Pope as belonging to his supremacy—and what Elizabeth in her oath of supremacy, and James I. in his oath of obedience, meant to deny to the Pope, and to assert as inherent in their crowns—Let it be so determined what the Pope of Rome claimed, if represented as claiming only a *spiritual* supremacy.

" These are, what Lord Hale calls, the two eminent oaths of supremacy and obedience, observing, 'that the ecclesiastical supremacy of the Crown is a 'most unquestionable right of it,—that the Pope had made great usurpations 'upon it,—that the statutes *rejoined* and *restored* it to the Crown,—that the 'Papal incroachments, yea, even in matters civil, under the loose pretence '*in ordine ad spiritualia,* had obtained a great strength, notwithstanding the 'security of the Crown had by the oaths of fealty and allegiance. So that 'there was a necessity to *unrivet* these usurpations by substituting, by authority of Parliament, a *recognition* by oath of the King's supremacy, as well in 'causes ecclesiastical as civil.'

" When Parliament to the oath of allegiance added this oath of supremacy, there could be no necessity of further explaining the common law oath of allegiance: and if the present oath of supremacy remains unaltered, the oath of allegiance will require no alteration now. But, if allegiance means undivided allegiance to a sovereign supreme head in Church and State, it might not perhaps be otherwise than open to much doubt, whether if, for the sake of Roman Catholics, the oath of supremacy is explained by statute, the oath of allegiance may not also require, for them, explanation."

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"The preamble of this proposed Act states scruples inasmuch as the Roman Catholics apprehend that 'the oath of supremacy might in part import a disclaimer of the Pope's spiritual authority in matters of religious belief;'—and what in matters of religious belief that authority might require from them has not been ascertained by inquiry here made, or information here given, and seems not to be very easily ascertainable. The proposed oath does not, however, assert that he has no other spiritual authority, 'than in matters of religious 'belief:' but that he has not any 'authority, which, in any manner, conflicts 'or interferes with the duty of full and undivided allegiance, which, by the 'laws of this realm, is due to his Majesty, or with the civil duty and obedience 'which is due to his courts civil and ecclesiastical, in all matters concerning 'the legal rights of his subjects, or any of them.'

"It is quite obvious that this leaves it entirely with the party taking the oath to determine for himself what does or does not so conflict or interfere with such allegiance, duty, and obedience. And of how many errors may the removal, or, as Lord Hale expresses it, the *unrivetting*, become necessary, when the Roman Catholic shall (as he heretofore determined for himself what was spiritual — and what portion of spiritual obedience he could withhold, though he owed full and undivided allegiance) — when he shall determine hereafter for himself, what authority of the Pope does or does not conflict or interfere with the duty of such full and undivided allegiance, and such civil duty and obedience, as is mentioned in this proposed act.

"That it is peculiarly necessary to consider alterations of this kind in oaths with jealousy is a proposition which experience might sanction.

"In the oath, permitted by the Irish Act of the 13th & 14th of George III., the Irish Roman Catholic swears to maintain the succession of the Crown, not in the heirs of the body of the Princess Sophia, *being Protestants*, but in his Majesty's Royal Family — and not in that family, *being Protestants*. If this oath was the oath regulating the conduct of the Irish Roman Catholic, its effects would be to be estimated, if there should be in that family, upon the demise of the Crown, an individual *not Protestant*. It at least demonstrates how carefully the effect of every word in a prescribed oath should be considered.

"After the English Act for the relief of the Roman Catholics passed in 1791, — in 1793 that Act passed in Ireland, from which a Noble Marquis last night read the oath which it prescribes. That Noble Lord observed that, after renouncing and repudiating certain principles and supposed articles of faith, and disavowing any intention to subvert the present Church Establishment, for the purpose of a Roman Catholic Establishment in its stead, the concluding part of the oath was thus expressed: — 'I do solemnly swear, that I will not 'exercise any privilege, to which I am or may become entitled, to disturb *or* 'weaken the Protestant religion and Protestant government in this kingdom.' Lord Eldon said he had in his hand a print of that Act of Parliament: he had also looked into the printed statute book, and he found that the words were not weaken OR disturb, but weaken *and* disturb; and it was observeable that the print of the statute, which he held in his hand, was peculiarly calculated to draw attention to this distinction, — the conjunctive *and* being printed in large characters, and made the subject of the following comment. The printer appears to be Mr. Coglan. The Irish Roman Catholic will probably have no difficulty in finding in the commentator a member of his own Church.

"The comment is thus expressed: —

'All are here agreed that, to violate the above clause, it is necessary to *dis-*'*turb* AND *weaken* not *only the Protestant religion*, but *likewise* the *Protestant* '*government*. They are connected evidently by the conjunctive *and*, without 'any comma after religion. Both must be *disturbed* and *weakened*, *not in any* '*manner*, but, precisely by the *exercise* of the privileges now granted. In 'other respects, we are in our former situation, as to *preaching*, *teaching*, *writing*, '*&c.* *Weaken* after *disturb* appears rather an expletive than a word conveying 'a distinct meaning, for it is implied in disturb; as whoever intends to disturb, '*à fortiori* intends to weaken. Hence, the expression is generally understood, 'and so it has been explained by every one consulted on it, to *weaken by dis-*'*turbance*. Indeed, if *or* was between the word disturb and the word weaken,

'as it was proposed to be, the signification would be changed and inad-
'missible.'

"Surely this sort of reasoning upon the terms of an oath should teach us to use great caution when we are prescribing in what terms we shall require oaths of security to be taken."

The observations which follow, as far as p. 29, relate to the phraseology of the particular oath to be proposed by the Bill in discussion. Lord Eldon proceeded: —

"Without adverting more, as yet, to what is or is not to be the state of ecclesiastical persons professing the Roman Catholic religion, under what may be called the second part of this Bill — originally another, or second Bill — how would a Roman Catholic clergyman deal with such a case as the following?

"Two persons intermarry, being in a state of consanguinity, such as does not prevent a marriage between them being valid according to our law — a consanguinity which is said, however, to form what is an *impedimentum dirimens*. Should a Roman Catholic ecclesiastic feel it to be his duty to refuse the sacrament to the parties, unless they voluntarily separate, it is to be supposed that he would act according to that duty. It has been understood that such would be his duty: he discharges that duty; and, by the exercise of it, induces the woman to separate herself from the person, according to our law, her husband. The husband, on the contrary, thinks proper to sue for a restitution of conjugal rights, and compels the wife to return. If such a case as this could happen, no reasoning, no casuistry, no distinction between what is temporal and what is ecclesiastical, between what is civil and what is spiritual, could lead a Legislature or a State to the endurance of it, or entitle an ecclesiastic to claim the character of a good subject, or to assert that he was doing nothing, which conflicted or interfered with allegiance, civil duty, and obedience, when he was using spiritual means in putting asunder those, who, according to the law of his country, were joined together."

Lord Eldon next reviewed the legislation of this country for the exclusion of Popery, through its long series, from the Act of Uniformity to the Acts of Union: "True it is," added he, "that Parliament cannot be absolutely bound by such an enactment for all generations: — but, when it is discussing whether such laws as these are to be considered as *fundamental and essential*, as making the state and the religion of the country fundamentally and essentially Protestant, and the kingdom itself a Protestant kingdom, no man can deny that they are — as far as in the nature of laws they can be, unalterable, *i. e.* that they are not to be altered without cogent necessity clearly shown; and that it is incumbent upon those, who propose the changes now meditated, to make out the necessity of so much alteration in the nature of 'an establish-
'ment, expressly formed in order that our religion, laws, and liberties, which
'had been subverted, might never again be in danger of being subverted.'"

* * * * * *

"Will His Majesty's subjects, professing the Roman Catholic religion, and, if this Bill passes, summoned to both Houses of Parliament to consult concerning the affairs of the Church, and therefore joining in Acts relative to the discipline, worship, and government of the Protestant Church, consent that the Protestant Member of these Houses shall so legislate as to the like ecclesiastical matters affecting the Roman Catholic body.

"If the statutes of 1791 and 1793 did not sufficiently relieve the Roman Catholics of the United Kingdom from pains and penalties, let them be so relieved. That is not the object of *this* Bill; which is to give them *political power* in almost as great a degree, and to as large an extent, as it can possibly be conferred.

"If there be any thing, not political power, which it may be proposed to enact for them, or any of them, neither is that the object of *this* Bill.

"This Bill does not propose certainly to change the system established at the Revolution, so far as it ordained that the Sovereign should be Protestant, by positive enactment. It does propose that that system shall be changed by such enactment, so as to admit Roman Catholics to offices of the highest trust, and with the exception of almost none. It certainly is not proposed by such enactment to discharge the Crown of its sworn duty to maintain the Church of England, as by law established — and, true and strange it is, that it does not propose to repeal the Test Act and Corporation Act. But whether the Bill has not a tendency to weaken the system, which requires the King to be Protestant — to weaken his power of effectually maintaining the Protestant Church and religion, and the Protestant throne, and to lead unquestionably to the repeal of the Corporation and Test Acts, is a question of great importance, and the solution of which is matter of no very great difficulty. Our ancestors thought there was no sufficient security if the Sovereign professed the Roman Catholic religion, though his Ministers, Councillors, and Parliaments were Protestant. Can it rationally be doubted that there is much less security for civil and religious freedom, if the King is Protestant, and his Ministers, Councillors, Parliament, and Judges, are Roman Catholics? The House is told, indeed, that there is ample security, if the Lord Chancellor must be Protestant and it seems to have been thought that the actual security would be found in the fact that the Crown never would actually appoint those whom the Act makes eligible to those great offices. Those who know the state in which a Protestant Chancellor would stand in a Cabinet of Roman Catholic Ministers, will readily believe that, if he had either sense or honesty, he neither would remain there, nor be permitted to remain there an hour. And look to the effect of rendering the Roman Catholics eligible to high offices, but not appointing them to such offices. This is insult towards them, more intolerable than ineligibility. But what would be the effect, with reference to the King? Do the Roman Catholics now complain? Does the present state of the disqualifying statutes goad and irritate them? Make them eligible to office, and yet withhold office from them, what is this but acting most unworthily towards them? You are also directing their discontent, hitherto pointed at the laws of their country, against the King upon the throne; it being, too, your duty to render him an object of affection, as far as may be, with all his subjects; and, compelling him to continue Protestant, you are engaging, in a great degree, his conscience to deny to the Roman Cotholics the benefits you pretend to enable him to confer upon them.

"But it may be said, the King's confidential servants may be partly Protestant, partly Roman Catholic — that such was the case under Queen Elizabeth, and other Sovereigns. But what did her experience teach her as to this? And what did the experience of those who came after her teach? That experience led to the change of system which was completed at the Revolution.

"If the King's confidential servants ought not to be Roman Catholics, it is said, nevertheless, his Privy Councillors may be chosen from among them;

provided only they abstain from advising the Crown as to benefices and offices in the Protestant Church, and that Roman Catholics may safely be admitted into both Houses of Parliament.

"With respect to Privy Councillors, it seems strange that, if their duties are to be changed, if they are to be restrained by this Act from advising in the matters specially mentioned, it had not occurred to alter, by enactment, the Privy Councillor's oath, when administered to a Roman Catholic. It may be said that the law which required the oath, will qualify the oath; but it is a little difficult to admit the consistency of my submitting to a law to-day, requiring me to withhold advice on *some* matters, and to take an oath to-morrow that I will faithfully give my opinion in *all* matters moved and debated. In the matter of oaths it is surely satisfactory and necessary to prevent the swearing in terms, which are in apparent contradiction, according to their obvious meaning, to what is really intended to be sworn.

"The Roman Catholic Privy Councillor is not to advise the Crown in the disposal of any benefice or office in the Protestant Church; but in how many matters of mighty import to the welfare of the community is he left at liberty to advise—and how many respecting even the welfare of that very Church? and of much more consequence to its welfare than the disposal of a Church preferment?

"It has been said, and most reasonably, that if you admit Roman Catholics into Parliament, you ought not to exclude them from the Privy Council: if you admit them into the great Council of the nation, that you cannot well exclude them from among the number of those who are to act in inferior councils.

"In truth, this argument, which points out the extent to which you must go, if you admit Roman Catholics into Parliament in a country, whose Government and Church are essentially and fundamentally Protestant, furnishes very weighty reasons why you should not admit them into Parliament.

"It has been urged that the repeal of the laws which prohibit Roman Catholics from sitting in either House of Parliament, would, in fact, make little change in the composition of Parliament—that it would not introduce more than six or seven Peers into the House of Lords, and very few Commoners into the other House of Parliament. And it has also been urged that after giving the elective franchise to the Roman Catholics in Ireland, you are, almost of necessity, required to render them capable also of sitting in Parliament.

"With respect to the House of Lords, that reasoning has been enforced by the fact that Roman Catholic Peers did sit in that House until the 30th of Charles II., and that being very few in number, if they should now sit in that House, it cannot be very objectionable; and their pretensions to sit there have been strongly recommended in observations, unquestionably most just, upon the excellence of the characters of the modern Roman Catholic Peers. In a question of this nature, the personal merits, however great, of particular individuals, must be laid out of consideration—it must be decided upon general principles. If Roman Catholics are unfit advisers of a Protestant King—in a Protestant state in the House of Commons—unfit there to counsel the King with respect to the worship, discipline, and government of a Protestant Established Church, they cannot be fit advisers to give counsel touching such matters in the other House of the Protestant Parliament. Previous to the Revolution it was, if not from actual danger, upon principle determined, that persons professing this religion should sit in neither of the Houses of Parliament.

"This exclusion from both, the Prince of Orange sanctioned, when, as the Bill of Rights states the fact, he addressed his letters only to the Lords Spiritual and Temporal *being Protestants.* This exclusion King William sanctioned in the several acts which passed during his reign, which committed to the hands of Protestants, or continued in the hands of Protestants, all offices connected with the government of his '*Protestant kingdom.*' If the government of this kingdom is fundamentally and essentially Protestant,—and Protestant it is fundamentally and essentially,—is it not, in just reasoning, matter of much consequence, whether the passing of this Bill would or would not introduce *many* Roman Catholics into the House of Commons: but it is difficult to assent to what has been stated repeatedly in assertion, that the number introduced would be too small dangerously to influence the decisions of that House. What has been the effect of giving to the Roman Catholics in Ireland the elective franchise? It has operated, as Lord Clare foretold in his able, prophetic, and constitutional speech. It may perhaps be reasonably asserted, that though as yet Roman Catholic representatives have not been sent to Parliament, such has been the influence of Roman Catholic electors, that to that very Act, which gave them the elective franchise, it is owing that the Bill now under discussion has passed the House of Commons. He must have been a very inattentive observer of what passes in Parliament, who has not remarked that a small band or knot of individuals, acting together upon system, constantly acting together, and watching for opportunities and moments favourable to their views and projects, may achieve great and important changes.

"It must be further recollected that, if this Bill passes, the Test and Corporation Acts must be repealed, and the members of Roman Catholic corporations entitled to send representatives to Parliament, would not be likely, if they had an option, to choose Protestant Members; and considering the other means which many Roman Catholics would have of obtaining seats in the Commons House, the calculation of the numbers of them that would become Members, seems in argument to have been stated much too low.

"It is of little consequence that this Bill provides that nothing contained in it shall be construed to alter the laws for establishing the uniformity of public prayers and administration of the sacrament, in the united Episcopal Church of England and Ireland. How futile and inefficacious must such an enactment appear to us—when we are enacting by this Bill itself—what seems to have a tendency to subvert all we have seen to have been declared by Parliament, *essential, fundamental, and to continue for ever!*

"This Bill excludes from the Ecclesiastical Courts of Judicature the Roman Catholics; but it seeks to capacitate them to fill all the benches of the Temporal Courts, and the highest seats of Judicature in such courts, with an exception only in the case of the Lord Chancellor,—an exception, not founded upon duties in his judicial character, but upon the nature of his other duties. Such, however, is the nature of our temporal and ecclesiastical laws, such the connection between them, that the assertion may be ventured that this object of the Bill, as to this matter, is unattainable; and, indeed, unless misinformation has been given to the public as to what has passed somewhere, the answer which has been given to those who have objected to this provision of the Bill has been, that nobody could conceive that Roman Catholics would actually be appointed to the judicial seats in Westminster Hall. To enact by law that you may do what is, in fact, never intended to be done, does not seem to be very wise or conciliatory legislation. Suppose it enacted, and Westminster Hall crowded with Roman Catholic judges, and commissions of review of the sentences of the Ecclesiastical Courts to issue, to what class of men are they to be addressed in the place of those temporal Protestant judges, who now form so essential a part of the courts constituted by such commissions?

"If Roman Catholics are not to be judges, it is said that you ought to allow them to have silk gowns; that no policy can justify your prohibitions against their being distinguished by professional rank of this kind. Certainly, as the law stands, they cannot be appointed king's counsel, but there is no law to prevent their having the same rank bestowed in patents of precedence—such a patentee has no office, and takes no oath. Mr. Ponsonby's Bill did not affect their situation because they had not the situation of office.

"It appears then, from what passed at the Revolution, that our ancestors were satisfied that political power in any department of the State in the hands of Papists, was inconsistent with the maintenance of a Protestant Establishment.

"Upon the principle that, in a Protestant kingdom political power should be placed in Protestant hands, the settlement then made, was made. Upon this principle, the settlement then made, has been continued from generation to generation,—and the wisdom of the principle is in itself sufficient to account for the adoption and maintenance of that settlement without reference to the dread of Popish plots, or apprehensions about Popish pretenders.

"With respect to the repeal of the laws relative to the declaration against transubstantiation, the House may be referred to what has been before stated, and to its decision upon a similar project in a former session. This is said to relate solely to matters of spiritual and religious belief, not interfering with allegiance or civil duty. The object of it, however, was to ascertain effectually what persons did hold, or were thought to hold, opinions interfering with allegiance properly understood. This provision was most industriously preserved at and since the Revolution as a most essential provision of law: not only the subjects, whether members of the Church of England, Protestant Dissenters, or Quakers were required, but the Sovereign was required to make this declaration—the Sovereign to make it in the most solemn manner, upon the most solemn occasion;—from that era to this hour, from reign to reign, the declaration has been continued to be required.—And the present King, upon his first entrance into this House as King, solemnly, on the throne, made this declaration. From all his successors, from none of his subjects, it seems to be the purpose of this Bill hereafter to require it.

"Let us now advert to the other parts of this Bill—this Bill of conciliation,—which, professing to unite and knit together the hearts of *all* His Majesty's subjects, has unfortunately set them all together by the ears, to use a vulgar phrase. It has, however, been said that *you* are to legislate; *others*, satisfied or dissatisfied, are to take the measure. Be it so—but then, if all are dissatisfied, do not insult them by calling this a Bill of conciliation!—by telling them that it is a Bill knitting together all their hearts in interest, and love and charity one towards another,—do not remind them of the fact that a person, perceiving one man running after another with a cat of nine tails, and being asked what he was about, declared that he only wanted to make a volunteer of the person he was pursuing.

"As to all the remaining parts of this Bill, the first objection is, that the Protestant sees no sufficient security in its enactments, and, such as that security is, the Roman Catholic is utterly averse to granting it.

"But the Bill is open in these parts of it to many observations.

"The House must be aware that this Bill is composed of what originally appeared in two Bills,—the former confined to the concessions, the latter to the securities.

"In the former Bill, his Majesty's Roman Catholic subjects were frequently mentioned *as such*, but no mention was made in that Bill of '*the Roman Catholic Church within any part of the United Kingdom.*'

"The second Bill, now forming the latter part of the proposed Bill, provides the precautions to be taken in respect of persons in Holy Orders professing the Roman Catholic religion, who may, at any time hereafter, be *elected*, *nominated*, or *appointed* to the exercise or discharge of *episcopal* duties or functions *in the Roman Catholic Church*, or to the duties or functions *of a Dean in the said Church within any part of the United Kingdom.* And the oath speaks of a Roman Catholic Bishop or Dean in the Roman *Catholic Church in the United Kingdom.*

"Surely, the House would expect, if it thinks proper to acknowledge in statutes a Roman Catholic Church *as a church* in England, that this acknowledgement should have appeared in some other form. Surely the House, before it can pass such a law as this speaking of Bishops and Deans in the Roman Catholic Church, as a church, acknowledged by English law as existing in England, will expect to be somewhat better informed, than it now is, how these Bishops and Deans are to be *elected*, *nominated*, or *appointed* to the exercise or discharge of their duties and functions.

"We have often heard of the Roman Catholic hierarchy in Ireland,—of its titular Bishops of particular places in Ireland, its titular Deans and Chapters; and, if this Bill passes, you will have two churches there ready formed,—the Protestant Church, and the Roman Catholic Church, with all its members ready to take their places. Whether the law of Ireland acknowledges the right of these functionaries to assume the titles of Archbishops and Bishops of Dublin, Armagh, and the other episcopal Sees, the House may satisfy itself by inquiry.

"But is it meant that in England we are to see a similar Roman Catholic hierarchy, with its titular Archbishops and Bishops of Canterbury, York, London, Durham, &c.; its titular Deans and Chapters, &c.? Can it be possible that the Legislature can pass such a Bill as this; and that too as a Bill of peace and conciliation, without previously settling in some measure how and in what form the Roman Catholic religion is to be exercised in England? Can it be meant, that in England, you are to introduce all the inconveniences and mischiefs, which are experienced in Ireland, by the co-existence of the Protestant hierarchy and the Roman Catholic hierarchy?

"We do not hear in England of titular Archbishops and Bishops of places in England. We admit the episcopal character resides in the Popish Bishop; but our law has, at least, *heretofore*, been *supposed* to prohibit their assuming titles connected with places in England as a misdemeanour.

It seems, therefore, to be a great objection to the bill, if you think to give to the Roman Catholics political power, that you make no provision for the peaceable co-existence of the Protestant Church, and what is termed the Roman Catholic Church in the United Kingdom, but leave them to jostle against each other as they may.

"Look at the Bills of 1791 and 1793;—see the provisions therein as to the exercise of the Roman Catholic religion; among others, even as to the form and structure of their places of worship, to preserve the predominancy of the Church of England.

"Has it been considered whether any similar provisions will be in force after this law passes? Or, are we to have a Roman Catholic cathedral vying in magnificence with our Protestant cathedral for the exercise of the Roman Catholic religion by its Archbishops, its Deans, and Chapters? Is it meant there shall be this public display of a Roman Catholic Church?

"A mode of worship, when set up in opposition to the national worship, and when allowed to be exercised in peace, we have been told, 'should be exercised with decency, gratitude, and humility.'

"It is unnecessary to trouble the House much as to the enactments relative to the commissioners to be appointed in England and Ireland according to this bill.

"There has been abundant reason to know, that the Roman Catholic Clergy of Ireland will not accept, as a boon, those enactments;—that they will not submit to that interposition of a *veto*, by Protestant authority, which is conceded by other Catholics to temporal sovereigns. This is not the first time in which this sort of conciliation has been attempted, and in vain, and probably some in the House know what has passed in Ireland upon this subject in the course of the last week.

"As to that part of the Bill, which relates to bulls, dispensations, and other instruments from the See of Rome, in a country in which the exercise of a dispensing power cost a King his crown, this Bill proposes in some instances to do what looks as if it authorised some commissioners, in others one commissioner, and that one an ecclesiastical commissioner professing the Roman Catholic religion, to dispense with the laws against receiving such instruments from Rome. How could it be expected, that the Roman Catholic Clergy would admit the inspection of these instruments?

"We have heard that the present Pope has himself declared that, neither in any intercourse with a Protestant or Roman Catholic power was the ecclesiastical power so subservient to the lay authorities, as to allow the rescripts or other instruments to be submitted to them.

"It well behoves the Legislature to pause before it will give a legal sanction of any kind to foreign intercourse with Rome — if such are the sentiments of the Roman Catholic Clergy and the Pope.

"Without meaning to impute, and disavowing the intention to impute to the Roman Catholics of this day some of the tenets, which some in former times were said to entertain, their opinions and those of their Church are yet such, as make it seem to be altogether inconsistent in a Government, settled as essentially Protestant, with a Protestant established Church, to grant them political power.

"The Church of England and Ireland are now one united Protestant Church. What endangers the one must endanger the other. If the concessions proposed to be granted by this bill are granted, and without securities (and what securities that will be given has the wisdom of man yet devised?) is it possible to believe that the Irish Roman Catholics will make this bill of concessions a resting point? Demand has followed from time to time upon demand, and demand will follow from time to time upon demand, till nothing more can be asked; for, till toleration of the Roman Catholics in Ireland gives way to Roman Catholic establishment, and Protestant establishment shall be succeeded by such a portion of toleration of Protestants as the Roman Catholics may be disposed to allow them, it cannot be rationally expected that the Roman Catholics there will cease their struggles to supplant the Protestant Church, if they did not disturb the settlement of property. In fact, the more sincere the Roman Catholics are in their religious belief the more strongly must they be impelled to weaken the Protestant Church. The fears of those considerable men, who opposed the grant of the elective franchise in Ireland, were thought to be chimerical; but do they now appear to have been chimerical?

" If this bill should pass, the next demand will be to repeal all the securities which it enacts.

" And indeed rumour has told us that there have not been wanting those, who have thought it expedient, on the part of the Roman Catholics, to let the bill pass, such as it is, notwithstanding all their objections to it, thereby establishing the concessions, and trusting confidently to the repeal, in another session, of the securities.

" It is said this bill, if passed, would be a bill of peace and conciliation. Is there not abundant reason to believe that it would in truth introduce confusion, and domestic discord, and eternal struggle for power?

" We know what has been the effect of our present Establishment for many generations.

" What will be the effect of the proposed changes, can at best be but matter of uncertain speculation and conjecture.

" The Lords and Commons were assembled at Westminster, by the Prince of Orange, ' in order to such an establishment, that our religion, laws, and liberties might not again be in *danger* of being subverted.' Is it possible to maintain that by such a total change of what was then established as is now meditated, they may not again be *in danger* of being subverted?

" Let us not disturb the happiness of the great mass of Protestants. Let us not mistake the present peaceable demeanour of the Protestant part of the community, produced by the influence of the confidence with which they hope Parliament will not finally adopt them, for their assent to these measures, or an indifference about them.

" The times, it is said, are changed, and the Catholics, it is said, are changed: be it so; but such change does not affect the soundness of the principles, upon which this kingdom has established itself as a 'Protestant kingdom,' with the powers of the State in Protestant hands, and with a Protestant Church establishment, and toleration, — toleration from time to time enlarged to the utmost extent the public welfare will admit; but toleration only, — for those who dissent from it.

" It may be that the Church of Rome itself has changed some of its tenets. Its Protestant advocates tell us so, — its Roman Catholic defenders deny it.

" But we are led not to doubt that the present Pope has re-established the order of the Jesuits, — that the Inquisition was revived, — we have heard of bulls against Protestant Societies distributing the Scriptures, — we have heard of transactions respecting Bishops in Belgium.

"We hear of the establishment of Stonyhurst, — we hear of Jesuits there, though we are told the Pope does not consent to their establishment in countries which are not willing to receive them; and we might ask where the person at the head of the Stonyhurst establishment now is, and for what purpose he is where he is said to be?

"We have been told that in Ireland, where the Roman Catholic hierarchy exists, they have their synods and their consistorial courts; and they are mis-represented, if they do not use their excommunications, and their refusals to give the Sacrament for purposes which it would be difficult to consider as of a purely spiritual nature, or to reconcile to the law of the land."

After quoting Judge Blackstone and Lord Clare, he cited from a speech of Lord Hardwicke a passage, concluding with these words: —

"'Even abstracted from religious considerations, the *Protestant religion ought* '*to be held in the highest reverence, as the surest barrier of our civil constitution.* 'Ecclesiastical usurpation seldom fails to end in civil tyranny. The present 'happy settlement of the Crown is, in truth, and not in name only, the Pro'testant succession; — and the inviolable preservation of that wise and fun'damental law, made since the Revolution, whereby every Papist is absolutely 'excluded from inheriting the Crown, will be a solid security to our posterity 'against all who shall watch for the destruction of our liberties.'

"If the cries of 'hear, hear,' mean to intimate that Noble Lords who are near, deem this as Lord Hardwicke's declaration of opinion, that the happy settlement of the Crown, consisted only in the excluding a Papist from the throne, and in no manner depended upon the Crown's being surrounded with Protestant councils, and that that exclusion alone, though the Crown should be surrounded in all departments of offices with Roman Catholic advisers (enemies to that *Protestant religion*, which is here said to be *the surest barrier of our civil constitution*) would be a solid security for our liberties, they impute to him a want of judgment, and contradictions in what he declares, altogether inconsistent with his great character. May the posterity of those Noble Lords find, in the preservation of our present laws, in those wise and fundamental laws, which require the Throne, the Government, and the Church, to be unalterably and for ever Protestant, that solid security for their liberties, which they can never find in excluding a Papist from the throne, but surrounding a Protestant King with Popish advisers!"

GENEALOGICAL TABLE

OF THE

FAMILY OF LORD CHANCELLOR ELDON,

SON OF WILLIAM SCOTT OF NEWCASTLE-ON-TYNE HOASTMAN.

WILLIAM SCOTT, OF NEWCASTLE-ON-TYNE, HOASTMAN, *son of William Scott of Newcastle-on-Tyne, Yeoman*, was born in the year of our Lord 1696 or 1697 : he married firstly, May 11. 1730, Isabella Noble, and by her had issue,

- I. *George Scott*, baptized July 22. 1731 : he died young, before his father's second marriage, which took place August 18. 1740.
- II. *Anne Scott*, baptized Aug. 17. 1732 : she married, May 18. 1752, William Cramlington, of Newcastle-on-Tyne, and by him had issue,
    - I. *Isabella Cramlington*, born Nov. 19. 1753 : she died young, March 2. 1755.
    - II. *Anne Cramlington*, born Dec. 22. 1755 : she married, Jan. 2. 1779, John Chrichloe Turner, Esq., (afterwards Sir John Chrichloe Turner, knighted Feb. 13. 1786,) of Newcastle-on-Tyne, and of Great Carlton, Lincolnshire, and by him had issue,
        - I. *Anne Turner* : she died an infant, and was buried Oct. 3. 1780.

      Anne, Lady Turner, died Nov. 11. 1815, aged 59 years. Sir John Chrichloe Turner died Oct. 7. 1813.
    - III. *Elizabeth Cramlington*, born Jan. 9. 1758 : she died an infant, Jan. 18. 1758.
    - IV. *Jane Cramlington*, born Feb. 17. 1760 : she died young, March 10. 1762.
    - V. *William Cramlington*, born June 17. 1761 : he died young, Dec. 28. 1763.

  Anne, Mrs. Cramlington, died Jan. 1. 1764. William Cramlington died May 12. 1810.
- III. *Isabella Scott* : she died an infant, and was buried Jan. 4. 1734.

Isabella, Mrs. Scott, was buried Jan. 14. 1734. William Scott married secondly, Aug. 18. 1740, Jane, daughter of Henry Atkinson, Esq., of Newcastle-on-Tyne, and by her had issue,

- I. *Margaret Scott*, baptized Aug. 3. 1741 : she died unmarried, and was buried March 11. 1766.
- II. *Jane Scott*, baptized Sept. 28. 1742 : she died young, and was buried Aug. 19. 1747.
- III. *Elizabeth Scott* : she died an infant, and was buried Nov. 16. 1744.
- IV. WILLIAM SCOTT, (*afterwards Sir William Scott, knighted Sept.* 3. 1788 ; *and created* LORD STOWELL *July* 17. 1821 ; *also* JUDGE OF THE HIGH COURT OF ADMIRALTY OF ENGLAND *from Oct.* 26. 1798 *to Feb.* 22. 1828,) born Oct. 17. 1745, the anniversaries of

*

which birthday, however, were, in consequence of the change of the style in 1752, celebrated by Lord Stowell himself on the 28th of October: he married firstly, April 7. 1781, Anna-Maria, daughter and co-heir of John Bagnall, Esq., of Earley Court, Reading, Berkshire, and by her had issue,

- I. *Mary-Anne Scott*, born Jan. 6. 1783: she married firstly, March 16. 1809, Thomas Townsend, Esq., of Honington, Warwickshire, who died April 26. 1820: she married secondly, July 29. 1823, Henry Addington, Viscount Sidmouth, widower of Ursula-Mary, daughter and co-heir of Leonard Hammond, Esquire. Mary-Anne, Viscountess Sidmouth, died without issue, April 26. 1842, aged 59 years. Henry Addington, Viscount Sidmouth, who was born May 30. 1757, died Feb. 15. 1844, aged 86 years.
- II. *William Scott*, born May 13. 1787: he died an infant, April 18. 1788.
- III. *William Scott*, (*the second William Scott of the same parents*,) born March 23. 1794: he died unmarried, Nov. 26. 1835, aged 41 years.
- IV. *Frances Scott*, (*twin sister of William Scott*,) born March 23. 1794: she died an infant, Oct. 12. 1794.

Anna-Maria, Lady Scott, died Sept. 4. 1809, aged 54 years. Sir William Scott married secondly, April 10. 1813, Louisa-Catherine, daughter and co-heir of Admiral Richard Howe, Earl Howe, K. G., and widow of John-Denis Browne, Marquess of Sligo: she died Aug. 26. 1817. William Scott, Lord Stowell, died Jan. 28. 1836, aged 90 years.

V. *Barbara Scott*, (*twin sister of William Scott, Lord Stowell*,) born Oct. 17. 1745: she died unmarried, May 3. 1823, aged 77 years.

VI. *Henry Scott*, baptized Nov. 2. 1748: he married, June 17. 1773, Mary, daughter of John Cook, Esq., of Togston and New Hall, Northumberland, and by her had issue,

- I. Mary Scott, born Sept. 14. 1774: she married, July 8. 1794, Joseph Forster, Esq., of Seaton-Burn, Northumberland, and by him has had issue,
  - I. *Henry Forster*, born April 7. 1795: he died unmarried, June 5. 1823, aged 28 years.
  - II. *Joseph-Francis Forster*, born Sept. 30. 1796: he married, May 19. 1825, Junie Jombert; and died without issue, May 17. 1828, aged 31 years. Junie, Mrs. Forster, married secondly, Dec. 28. 1830, the Rev. James Manisty.
  - III. *Ellen Forster*, born April 4. 1798: she died unmarried, Dec. 12. 1841, aged 43 years.
  - IV. *Mary-Henrietta Forster*, born Nov. 13. 1799: she died young, April 26. 1805.
  - V. *Jane-Mary Forster*, born Jan. 23. 1801: she died young, June 10. 1810.
  - VI. William-John Forster, born Aug. 22. 1805: he married, April 20. 1829, Frances-Margaret, only daughter and heir of Dr. Hird, of Leeds, Yorkshire, and by her had issue,
    - I. Henry-Hird Forster, born June 17. 1830.
    - II. Mary-Anne-Sidmouth Forster, born April 18. 1832.

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‖ Frances-Margaret, Mrs. Forster, died April 10. 1838.

Joseph Forster, Esq. died April 7. 1821.

II. *Jane Scott*, baptized Oct. 2. 1777 : she died young, and was buried March 11. 1780.

Henry Scott died Dec. 8. 1799, aged 51 years : Mary, Mrs. Scott, died June 3. 1825.

VII. *Jane Scott, (the second Jane Scott of the same parents,)* baptized May 22. 1750 : she died young, and was buried Aug. 2. 1751.

VIII. JOHN SCOTT, (*afterwards Sir John Scott, knighted June* 27. 1788 ; *and created Lord Eldon July* 18. 1799, *and* EARL OF ELDON *and Viscount Encombe July* 7. 1821 ; *also* LORD HIGH CHANCELLOR OF GREAT BRITAIN *from April* 14. 1801 *to Feb.* 7. 1806, *and from April* 1. 1807 *to April* 30. 1827,) born June 4. 1751 : he married, Nov. 19. 1772, at Blackshiels, North Britain, (and the marriage was again solemnized, Jan. 19. 1773, at the church of St. Nicholas, Newcastle-on-Tyne,) Elizabeth, eldest daughter of Aubone Surtees, Esq., of Newcastle-on-Tyne, and by her had issue,

I. *John Scott*, born March 8. 1774 : he married, Aug. 22. 1804, Henrietta-Elizabeth, daughter of Sir Matthew-White Ridley, Baronet, of Blagdon, Northumberland, and by her had issue,

I. John Scott, (who succeeded his grandfather as second Earl of Eldon, Jan. 13. 1838,) born Dec. 10. 1805 : he married, Oct. 1. 1831, Louisa, daughter of Charles Duncombe, Lord Feversham, and by her has had issue,

I. *A son*, still-born, Aug. 16. 1832.
II. Charlotte-Elizabeth Scott, born Aug. 26. 1834.
III. Augusta-Henrietta Scott, born May 13. 1836.
IV. Katharine-Frances Scott, born Dec. 15. 1837.
V. *A son*, still-born, Jan. 24. 1840.
VI. Gertrude-Louisa Scott, born May 6. 1841.
VII. Selina-Jane Scott, born March 22. 1843.

John Scott, (the son of Lord Chancellor Eldon,) died Dec. 24. 1805, aged 31 years. Henrietta-Elizabeth, Mrs. Scott, married secondly, July 6. 1811, James-William Farrer, Esq., of Ingleborough, Yorkshire.

II. Elizabeth Scott, born Nov. 1. 1783 : she married, Nov. 27. 1817, George-Stanley Repton Esq., and by him has had issue,

I. George-William-John Repton, born Dec. 26. 1818.

III. *Edward-William Scott*, born Sept. 23. 1791 : he died an infant, April 20. 1792.

IV. *Henry-John Scott*, born Aug. 11. 1793 : he died an infant, Sept. 2. 1793.

V. *William-Henry-John Scott*, born Feb. 25. 1795 : he died unmarried, July 6. 1832, aged 37 years.

VI. *Frances-Jane Scott*, born June 15. 1798 : she married, April 6. 1820, the Rev. Edward Bankes, Rector of Corfe-Castle, Dorset, and by him had issue,

I. *A son*, born on or about Aug. 12. 1823, who died on the day of his birth.

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II. John-Scott Bankes, born Jan. 11. 1826.
III. Frances Bankes, born Aug. 11. 1827.
IV. Eldon-Surtees Bankes, born Sept. 27. 1829.
V. Henry-Eldon-George Bankes, born July 2. 1836.

Lady Frances-Jane Bankes died Aug. 6. 1838, aged 40 years. The Rev. Edward Bankes married secondly, Sept. 3. 1839, Maria, daughter of the Hon. and Very Rev. Edward Rice, D.D., Dean of Gloucester.

Elizabeth, Countess of Eldon, who was born Oct. 23. 1754, died June 28. 1831, aged 76 years. John Scott, Earl of Eldon, (Lord Chancellor Eldon,) died Jan. 13. 1838, aged 86 years.

IX. *Elizabeth Scott, (the second Elizabeth Scott of the same parents, twin sister of John Scott, Lord Chancellor Eldon,)* born June 4. 1751 : she died an infant, and was buried June 21. 1751.

X. *Jane Scott, (the third Jane Scott of the same parents,)* baptized May 17. 1753 : she married, Sept. 11. 1786, Thomas Burdon, Esq., of Newcastle-on-Tyne, (afterwards Sir Thomas Burdon, knighted May 14. 1816,) and by him had issue,

I. *William Burdon*, born June 9. 1787 : he died unmarried, in February 1823, aged 35 years.

II. *Thomas Burdon*, born June 25. 1789 : he married, Aug. 26. 1828, Anne Hickman ; and died without issue, Feb. 15. 1829, aged 39 years.

III. Richard Burdon, (afterwards Richard Burdon-Sanderson,) born March 31. 1791 : he married, Feb. 7. 1815, Elizabeth, only daughter and heir of Sir James Sanderson, Baronet, on which occasion he took the name and arms of Sanderson in addition to his own, and by her has had issue,

I. Richard Burdon-Sanderson, born June 27. 1821.
II. Elizabeth Burdon-Sanderson, born Nov. 30. 1823.
III. Mary-Elizabeth Burdon-Sanderson, born April 9. 1825.
IV. John-Scott Burdon-Sanderson, born Dec. 21. 1828.
V. Jane-Charlotte Burdon-Sanderson, born Nov. 23. 1835.

Jane, Lady Burdon, died May 8. 1822 : Sir Thomas Burdon died July 26. 1826.

XI. }
XII. } *A son and a daughter, twins*, still-born.

XIII. *A child*, still-born.

William Scott, of Newcastle-on-Tyne, Hoastman, died Nov. 6. 1776, aged 79 years. Jane, Mrs. Scott, died July 16. 1800, aged 91 years.

This Genealogical Table of the Family of Lord Chancellor Eldon, son of William Scott of Newcastle-on-Tyne Hoastman, contains, to the best of my knowledge information and belief, a true account of the said William Scott of Newcastle-on-Tyne Hoastman, and of all the descendants of his body lawfully begotten, and of all marriages contracted by them.

ELDON.

June 22. 1844.

THE END.

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